

# STATE OF NEW YORK

14--A

Cal. No. 312

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. HOYLMAN, KAPLAN, BIAGGI, COONEY, GAUGHRAN, GOUNARDES, HARCKHAM, JACKSON, KAVANAGH, LIU, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to enacting the Jose Webster untraceable firearms act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Jose  
2 Webster untraceable firearms act".

3 § 2. Section 265.00 of the penal law is amended by adding a new subdivi-  
4 sion 8-a to read as follows:

5 8-a. "Serialized" means bearing a visible identification number and/or  
6 symbol in accordance with the requirements imposed on licensed importers  
7 and licensed manufacturers pursuant to subsection (i) of Section 923 of  
8 Title 18 of the United States Code and regulations issued pursuant ther-  
9 eto in effect at the time of assembly, except for antique firearms as  
10 defined in subdivision fourteen of this section, as added by chapter  
11 nine hundred eighty-six of the laws of nineteen hundred seventy-four, or  
12 any firearm, rifle or shotgun manufactured prior to nineteen hundred  
13 sixty-eight.

14 § 3. Section 265.00 of the penal law is amended by adding a new subdivi-  
15 sion 32 to read as follows:

16 32. "Ghost gun" means a firearm, rifle or shotgun that does not comply  
17 with the provisions of section 265.07 of this article and is not serial-  
18 ized.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD00324-15-1

1 § 4. Subdivision 8 of section 265.01 of the penal law, as amended by  
2 chapter 1 of the laws of 2013, is amended and a new subdivision 9 is  
3 added to read as follows:

4 (8) [~~He~~] Such person possesses any armor piercing ammunition with  
5 intent to use the same unlawfully against another.

6 (9) Such person is not required to be a gunsmith licensed pursuant to  
7 section 400.00 of this chapter and, knowing it is a ghost gun, such  
8 person possesses a ghost gun, provided that a person shall not be guilty  
9 under this subdivision when he or she (a) voluntarily surrenders such  
10 ghost gun to any law enforcement official designated pursuant to subpar-  
11 agraph (f) of paragraph one of subdivision (a) of section 265.20 of this  
12 article; or (b) for a period of six months after the effective date of  
13 this section possesses a ghost gun prior to serialization and registra-  
14 tion of such ghost gun pursuant to section 265.07 of this article.

15 § 5. The penal law is amended by adding a new section 265.07 to read  
16 as follows:

17 § 265.07 Registration and serialization of firearms, rifles, shotguns,  
18 finished frames or receivers, and unfinished frames or  
19 receivers.

20 (1) For the purposes of this section, "unfinished frame or receiver"  
21 means any material that does not constitute the frame or receiver of a  
22 firearm, rifle or shotgun but that has been shaped or formed in any way  
23 for the purpose of becoming the frame or receiver of a firearm, rifle or  
24 shotgun, and which may readily be made into a functional frame or  
25 receiver through milling, drilling or other means. The term shall not  
26 include material that has had its size or external shape altered to  
27 facilitate transportation or storage or has had its chemical composition  
28 altered.

29 (2) On or before the effective date of this section, and promptly upon  
30 taking possession thereof at any time thereafter, any person required to  
31 be a gunsmith licensed pursuant to section 400.00 of this chapter, who  
32 is in possession of an unserialized firearm, rifle, shotgun, finished  
33 frame or receiver, or unfinished frame or receiver shall:

34 (a) engrave, cast, stamp or otherwise conspicuously place both a  
35 unique serial number and his or her name (or recognized abbreviation) on  
36 such firearm, rifle, shotgun, finished frame or receiver, or unfinished  
37 frame or receiver, in a manner that satisfies or exceeds the require-  
38 ments imposed on licensed importers and manufacturers pursuant to  
39 section (i) of Section 923 of Title 18 of the United States Code and  
40 regulations issued pursuant thereto at the time of such assembly; and

41 (b) register with the division of state police any such firearm, rifle  
42 or shotgun, finished frame or receiver, or unfinished frame or receiver.

43 Any person required to be a gunsmith licensed pursuant to section  
44 400.00 of this chapter who fails to comply with the provisions of this  
45 section shall be guilty of a class E felony.

46 § 6. The penal law is amended by adding two new sections 265.60 and  
47 265.61 to read as follows:

48 § 265.60 Criminal sale of a ghost gun in the second degree.

49 1. A person is guilty of criminal sale of a ghost gun in the second  
50 degree when, knowing or having reason to know it is a ghost gun, he or  
51 she sells, exchanges, gives or disposes of a ghost gun to another  
52 person.

53 2. Notwithstanding subdivision one of this section, a person shall not  
54 be guilty of criminal sale of a ghost gun in the second degree when such  
55 person: (a) voluntarily surrenders such ghost gun to any law enforcement  
56 official designated pursuant to subparagraph (f) of paragraph one of

1 subdivision (a) of section 265.20 of this article; or (b) within a peri-  
2 od of six months after the effective date of this section sells,  
3 exchanges, gives, or disposes of such ghost gun to a gunsmith licensed  
4 pursuant to section 400.00 of this chapter.

5 Criminal sale of a ghost gun in the second degree is a class E felony.  
6 § 265.61 Criminal sale of a ghost gun in the first degree.

7 1. A person is guilty of criminal sale of a ghost gun in the first  
8 degree when, knowing or having reason to know they are ghost guns, he or  
9 she sells, exchanges, gives or disposes of ten or more ghost guns to  
10 another person or persons.

11 2. Notwithstanding subdivision one of this section, a person shall not  
12 be guilty of criminal sale of a ghost gun in the first degree if he or  
13 she: (a) voluntarily surrenders such ghost guns to any law enforcement  
14 official designated pursuant to subparagraph (f) of paragraph one of  
15 subdivision (a) of section 265.20 of this article; or (b) within a peri-  
16 od of six months after the effective date of this section sells,  
17 exchanges, gives, or disposes of such ghost guns to a gunsmith licensed  
18 pursuant to section 400.00 of this chapter.

19 Criminal sale of a ghost gun in the first degree is a class D felony.

20 § 7. Severability. If any clause, sentence, paragraph, section or part  
21 of this act shall be adjudged by any court of competent jurisdiction to  
22 be invalid, such judgment shall not affect, impair or invalidate the  
23 remainder thereof, but shall be confined in its operation to the clause,  
24 sentence, paragraph, section or part thereof directly involved in the  
25 controversy in which such judgment shall have been rendered.

26 § 8. This act shall take effect on the one hundred eightieth day after  
27 it shall have become a law. Effective immediately, the addition, amend-  
28 ment and/or repeal of any rule or regulation necessary for the implemen-  
29 tation of this act on its effective date are authorized to be made and  
30 completed on or before such effective date.