STATE OF NEW YORK

1962--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 14, 2025

Introduced by M. of A. ANDERSON, SEAWRIGHT, CUNNINGHAM, WEPRIN, CRUZ, DINOWITZ, EPSTEIN, SCHIAVONI, GONZALEZ-ROJAS, LAVINE, ROMERO -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to enacting "Francesco's law"; and providing for the repeal of certain provisions of the penal law relating to safely storing rifles, shotguns, and firearms

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

Section 1. Short title. This act shall be known and may be cited as "Francesco's law".

§ 2. Section 265.45 of the penal law, as amended by chapter 371 of the laws of 2022 and subdivision 2 as amended by section 3 of part F of chapter 55 of the laws of 2023, is amended to read as follows:

§ 265.45 Failure to safely store rifles, shotguns, and firearms [~~in the first degree~~].

1. No person who owns or is custodian of a rifle, shotgun or firearm [~~who resides with an individual who: (i) is under eighteen years of age; (ii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm pursuant to a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or (iii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm based on a conviction for a felony or a serious offense,~~] shall store or otherwise leave such rifle, shotgun or firearm out of [~~his or her~~] **such person's** immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon.

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

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2. No person shall store or otherwise leave a rifle, shotgun, or firearm out of such person's immediate possession or control inside a vehicle without first removing the ammunition from and securely locking such rifle, shotgun, or firearm in an appropriate safe storage depository out of sight from outside of the vehicle; provided, however, this subdivision shall not apply to a police officer as such term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law, a qualified law enforcement officer authorized to carry concealed firearms pursuant to 18 U.S.C. 926B, or a person in the military service of the United States or the state of New York when such police officer, qualified law enforcement officer, or person in such military service is acting in the course of such person's official duty or employment and otherwise complying with any applicable standards or requirements pertaining to the storage of such rifle, shotgun, or firearm.

3. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, keypad, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein and shall be fire, impact, and tamper resistant. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. For the purposes of subdivision two of this section, a glove compartment or glove box shall not be considered an appropriate safe storage depository.

[~~4. It shall not be a violation of this section to allow a person less than eighteen years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-a of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than eighteen years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law.~~]

Failure to safely store rifles, shotguns, and firearms [~~in the first degree~~] is [~~a class A misdemeanor~~]:

(i) for a first offense, a violation;

(ii) for a second offense, a class B misdemeanor; and

(iii) for a third offense, a class A misdemeanor.

§ 3. Section 265.46 of the penal law is REPEALED.

§ 4. The penal law is amended by adding a new section 265.51 to read as follows:

§ 265.51 Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the third degree.

1. For the purposes of this section, the following terms shall have the following meanings:

(a) "prohibited person" shall mean any person who is prohibited from possessing a rifle, shotgun or firearm under state or federal law; and

(b) "minor" shall mean an individual under eighteen years of age.

2. A person is guilty of failure to safely store rifles, shotguns, and firearms accessible to a minor or a prohibited person in the third degree when:

(a) such person stores or otherwise leaves any rifle, shotgun or firearm in violation of section 265.45 of this article in any location where the owner or custodian of the rifle, shotgun, or firearm knows or

has reason to know that a minor or a prohibited person is likely to gain access to such rifle, shotgun or firearm; and

(b) a minor or a prohibited person gains access to such rifle, shotgun or firearm.

3. It shall not be a violation of this section:

(a) if the minor or prohibited person obtained the firearm, rifle, or shotgun as a result of unlawful entry by any person; or

(b) if the minor or prohibited person obtains the firearm, rifle, or shotgun in a lawful act of self-defense or defense of another person.

Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the third degree is a class A misdemeanor.

§ 5. The penal law is amended by adding a new section 265.52 to read as follows:

§ 265.52 Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the second degree.

1. For the purposes of this section, the following terms shall have the following meanings:

(a) "prohibited person" shall mean any person who is prohibited from possessing a rifle, shotgun or firearm under state or federal law; and

(b) "minor" shall mean an individual under eighteen years of age.

2. A person is guilty of failure to safely store rifles, shotguns, and firearms accessible to a minor or a prohibited person in the second degree when:

(a) such person recklessly stores or otherwise leaves any rifle, shotgun or firearm in violation of section 265.45 of this article in any location where the owner or custodian of the rifle, shotgun, or firearm knows or has reason to know that a minor or a prohibited person is likely to gain access to such rifle, shotgun or firearm; and

(b) a minor or a prohibited person gains access to such rifle, shotgun or firearm and uses it to injure themselves or another in the commission of a crime.

3. It shall not be a violation of this section:

(a) if the minor or prohibited person obtained the firearm, rifle, or shotgun as a result of unlawful entry by any person; or

(b) if the minor or prohibited person obtains the firearm, rifle, or shotgun in a lawful act of self-defense or defense of another person.

Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the second degree is a class D felony.

§ 6. The penal law is amended by adding a new section 265.53 to read as follows:

§ 265.53 Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the first degree.

1. For the purposes of this section, the following terms shall have the following meanings:

(a) "prohibited person" shall mean any person who is prohibited from possessing a rifle, shotgun or firearm under state or federal law; and

(b) "minor" shall mean an individual under eighteen years of age.

2. A person is guilty of failure to safely store rifles, shotguns, and firearms accessible to a minor or a prohibited person in the first degree when:

(a) such person recklessly stores or otherwise leaves any rifle, shotgun or firearm in violation of section 265.45 of this article in any

location where the owner or custodian of the rifle, shotgun, or firearm knows or has reason to know that a minor or a prohibited person is likely to gain access to such rifle, shotgun or firearm; and

(b) a minor or a prohibited person gains access to such rifle, shotgun or firearm and uses it to cause the death of themselves or another person.

3. It shall not be a violation of this section:

(a) if the minor or prohibited person obtained the firearm, rifle, or shotgun as a result of unlawful entry by any person; or

(b) if the minor or prohibited person obtains the firearm, rifle, or shotgun in a lawful act of self-defense or defense of another person.

Failure to safely store rifles, shotguns, and firearms when accessible by a minor or prohibited person in the first degree is a class C felony.

§ 7. This act shall take effect immediately; provided, however, sections two, three, four, five, and six of this act shall take effect on the ninetieth day after it shall have become a law.