

# New York Secure Ammunition and Firearm Enforcement Act of 2013 (NY SAFE)

The following is a summary of the changes to the law that will be brought about by this act. Broken down by topic:

## Assault Weapons

The definition of an assault weapon will be modified by this bill. Currently, New York Law is patterned on the old 1994 federal assault weapon ban which employed a “two feature” test. This will be changed in NY to a one feature test. Those weapons currently owned which do not meet the new requirements will be grandfathered in, but will have to be registered with the state police. Going forward, firearms which do not meet these new requirements will be outright banned in New York.

A semi-automatic rifle with a detachable magazine that possesses one of the following features will be classified as an illegal assault weapon:

- Telescoping stock;
- Pistol grip that protrudes conspicuously beneath the action of the weapon;
- Thumbhole stock;
- Second handgrip that can be held by the non-trigger hand;
- Bayonet mount;
- Flash suppressor, muzzle break, muzzle compensator or threaded barrel;
- Grenade launcher.

Revolving cylinder shotguns will be classified as an illegal assault weapon outright. A semiautomatic shotgun will be classified as an illegal assault weapon if it has one of the following characteristics:

- Telescoping stock;
- Thumbhole stock;
- Second handgrip that can be held by the non-trigger hand;
- The ability to accept a detachable magazine;
- A fixed magazine capacity in excess of 7 rounds.

A semiautomatic pistol will be classified as an illegal assault weapon if it has one of the following characteristics:

- The capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;
- A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip or silencer;
- A shroud which allows the non-trigger hand to grip the barrel of the gun without being burnt;
- A manufactured weight of fifty ounces or more when the pistol is unloaded;

A semiautomatic version of an automatic rifle, shotgun or firearm

### Transfer Restrictions:

Current owners of newly banned weapons may transfer the weapons only to a licensed NYS firearms dealer or to an out of state buyer. Also, private sales will be subject to the same background check requirements that licensed firearms dealers must comply with (with and exception for private sales to immediate family members).

### Exemptions include:

Antiques;

Firearms which have been rendered permanently inoperable;

Manually operated firearms (bolt action, lever action, pump action);

Semiautomatic rifles which cannot accept a detachable magazine that holds more than 5 rounds;

A semiautomatic shotgun that cannot hold more than 5 rounds, in a fixed or detachable magazine;

Any firearm manufactured 50 years prior to the enactment date of the bill.

## Registration Requirements

The bill proposes to create a statewide registry of currently owned assault weapons across the state. The registry will be constructed and administered by the Division of State Police. Within one year, all weapons meeting the criteria for registration must have done so. All registered owners will be subject to a review of disqualifiers for gun ownership. Knowing failure to register your weapon will constitute a class A misdemeanor.

Persons who possess the following weapons must, within one year of the enactment of the bill, register their weapon with the State Police:

**All assault weapons which qualify under the “one feature” test**

**All weapons grandfathered in under the original NYS Assault weapons ban (“two feature” weapons)**

### FOIL Implications:

Immediately following the enactment of this bill there will be a 120 day freeze on granting public disclosure requests (FOIL) for information on gun licensees or applicants for a license. Those applying for a license or those currently with a pistol permit may submit a form requesting their information to be exempt from public disclosure.

### Changes in Licensing Procedures:

The licensing officer of every county must now, as part of their background investigation of a person applying for a license, petition the State Police database for any pertinent information about the applicant. All licenses shall be recertified to the division of state police every 5 years after the date of its issuance. Failure to recertify will act as a revocation of the license.

## **Ammunition**

A large capacity ammunition feeding device is redefined to mean any magazine, drum, belt, feed strip, or similar device that:

Has a capacity of more than 10 rounds of ammunition, regardless of whether it was manufactured before 1994;

Contains more 7 rounds of ammunition\*;

Has a capacity for more than 7 rounds.

\*Meaning that any person who currently owns a magazine which can hold 8-10 rounds of ammunition will only be allowed to load 7 rounds into it in the future.

Sellers of ammunition, not just firearms, will be required to register with the State Police and keep an accurate record of all sales and purchases, to be provided and entered into the statewide database. The bill will further require that ammunition will only be able to be sold by persons who are able to access the State Police database to perform a background check. This will essentially eliminate internet sales of ammunition in NYS.

## **New Crimes Established**

**Criminal Possession of a Weapon on School Grounds:**

A person is guilty of this crime when he or she knowingly possesses a firearm in a building or on the grounds of any school, university or college, or upon a school bus, without written authorization from the educational institution. Criminal possession of a Weapon on School Grounds will be a class E felony.

**Mark's Law:**

The sections of the Penal law which define Aggravated Murder (125.26) and First Degree Murder (125.27) are amended such that the intentional killing of a first responder means that a person may be charged with these crimes and, if found guilty, must be sentenced to life without parole.

## **Safe Storage Mandates**

The penal law is amended to include a section that requires lawful gun owners, who reside with another person who is prohibited from possessing a firearm (children, felons, the mentally ill), to store their weapons in a safe or an analogous lockable container, or that they be stored in the open with a trigger locking mechanism attached. Failure to do so is a class A misdemeanor.

## **Mental Health**

Existing New York State law provides for involuntary outpatient commitment to community based mental health services, also known as Assisted Outpatient Treatment (AOT) or "Kendra's Law". **The NYSAFE Act contains the following language to strengthen Kendra's Law:**

The maximum length of an initial order for AOT has been extended from 6 months to 12 months. A judge will now have the ability to order up to 12 months of AOT without reevaluating an individual to determine if they are still in need of AOT. Prior to the expiration of an order, the individual must be evaluated to determine whether they are in need of an extension of the AOT order. The local Director of Community Services (DCS) is responsible for ensuring the evaluation is performed. Where a local DCS has reason to believe an assisted outpatient has moved, or is moving to another county, the DCS must notify the DCS of the new county. The DCS in the new county would then become responsible for the assisted outpatient and the AOT order upon such relocation.

The AOT law was set to expire in 2015. It has been extended to June 30, 2017.

All patients being discharged from an Office of Mental Health (OMH) State Hospital who are Department of Correctional Services (DOCS) inmates must be evaluated by OMH to assess need for AOT. If indicated, the hospital director must file a petition or refer the matter to local DCS where the person being discharged is expected to reside, for further evaluation.

The law also requires the revocation of any gun license from and the surrender of any gun by a defendant upon an entry of a verdict of not responsible by reason of mental disease or defect, upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that a defendant is an incapacitated person

Additionally, if a "mental health professional" (physician, psychologist, RN, LCSW) determines that a person they are treating is "likely to engage in conduct that would result in serious harm to self or others," they must notify the DCS. If the DCS determines that the claim of the mental health professional is founded, the DCS must report to the Division of Criminal Justice Services. DCJS will then check registered firearms records to determine if gun license suspension or revocation is in order.