



Suffolk Alliance of Sportsmen, Inc.

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The voice of Suffolk County's sportsmen and sportswomen

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NY SAFE Act of 2013

First, the bad news. This is a preliminary analysis of what the bill says. Changes may occur, as proposed legislative changes, if any, take effect. As of January 22nd, 2013, this is the essence of the statute.

1. Private sales, of *all* handguns, rifles or shotguns, to anyone, other than an immediate family member (defined *only* as spouse, domestic partner, step-child or child), are subject to a background check, *through a dealer*. The dealers are *not statutorily required* to perform these checks and, *statutorily*, may not charge more than \$10, to do so, which is below the dealer's cost. If the dealer agrees to perform these NICS checks, that dealer must keep a written record, of the details of such check, on a form to be provided, by the state, for at least 20 years, at his/her place of business (no off-premises storage is allowed).

2. Internet sales or purchases, of "assault weapons," are banned, within NYS, even for dealers.

3. Failing to "safely store" *any* firearm becomes a misdemeanor. Safe storage includes locks, disassembly and/or storage, in a container which is "*incapable* of being opened without the key, combination or other unlocking mechanism," making "safe storage" all but legally impossible, if you want a working firearm, capable of being immediately usable, in the event you might need it.

4. Ammunition magazines would be restricted to *contain no more than* seven cartridges, provided the magazine's permanent capacity is no greater than 10. You may, for the moment, keep your 10 round mags. Current owners of higher-capacity magazines would have sixty (60) days to sell them, *out of state*. An owner of a magazine, with a capacity of 10, caught, *at home*, with eight or more rounds, in a magazine, will face a \$200 fine, for the first magazine/violation, then a misdemeanor charge, for any additional ones.

5. Newly defined "assault weapons" include *just about any and all* semi-auto rifles, shotguns or handguns, with detachable magazines and *even some, with fixed magazines or tube feeds, if the fixed mag or tube capacity exceeds 10 rounds*. They must be registered, within 1 year of the effective date of the statute or sold, *out of state, through a dealer*.

Here's the new definition of "assault weapon:"

(A) a *semiautomatic rifle* that has an *ability to accept* a detachable magazine and has *at least one* of the following characteristics:

(i) a folding or telescoping stock;

(ii) a pistol grip that protrudes *conspicuously (undefined)* beneath the action of the weapon;

(iii) a thumbhole stock;

(iv) a second handgrip or a protruding grip (*undefined*) that can be held by the non-trigger

hand;

(v) a bayonet mount;

(vi) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel *designed to accommodate* a flash suppressor, muzzle break, or muzzle compensator;

(vii) a grenade launcher; or

(B) a *semiautomatic shotgun* that has *at least one* of the following characteristics:

(i) a folding or telescoping stock;

(ii) a thumbhole stock;

Affiliations

National Rifle Association of America ◇ NY Sportfishing Federation ◇ NYS Conservation Officers' Association
NYS Crossbow Hunters' Association ◇ NYS Rifle & Pistol Association ◇ NYS Sportsman Education Foundation
NYS Trappers' Association ◇ Suffolk County Sportsmen's Advisory Council ◇ United Gamefish Anglers ◇ Wildlife Legislative Fund



- (iii) a second handgrip *or a protruding grip* that can be held by the non-trigger hand;
- (iv) a *fixed magazine capacity* in excess of seven rounds;
- (v) *an ability to accept* a detachable magazine; or

(C) a *semiautomatic pistol* that has an *ability to accept* a detachable magazine and has *at least one* of the following characteristics:

- (i) a folding or telescoping stock;
- (ii) a thumbhole stock;
- (iii) a second handgrip or a protruding grip that *can be held* by the non-trigger hand;
- (iv) *capacity to accept* an ammunition magazine that attaches to the pistol outside of the pistol grip;
- (v) a *threaded barrel capable of accepting* a barrel extender, flash suppressor, forward handgrip, or silencer;
- (vi) a *shroud that is attached to, or partially or completely encircles*, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;
- (vii) a manufactured weight of fifty ounces or more when the *pistol is unloaded*; or
- (viii) a semiautomatic version of an automatic rifle, shotgun or firearm;

(D) a revolving cylinder shotgun;

(E) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision twenty-two of Section 265.00 of this chapter as added by chapter one hundred eighty-nine of the laws of two thousand and *otherwise lawfully possessed* pursuant to such chapter of the laws of two thousand prior to September fourteenth, nineteen hundred ninety-four;

(F) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph (a), (b) or (c) of this subdivision, *possessed prior to the date of enactment* of the chapter of the laws of two thousand thirteen which added this paragraph;

(G) provided, however, that such term does not include:

- (i) any rifle, shotgun or pistol that (a) is manually operated by bolt, pump, lever or slide action;
- (b) has been rendered permanently inoperable; or (c) is an antique firearm as defined in 18 U.S.C. 921(a)(16);
- (ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;
- (iii) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine; or
- (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured on October first, nineteen hundred ninety-three. *The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon*;
- (v) any weapon validly registered pursuant to subdivision Sixteen-A of Section 400.00 of this chapter. Such weapons shall be subject to the provisions of paragraph (h) of this subdivision;
- (vi) any firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas there if that is validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter;

(H) any weapon defined in paragraph (e) or (f) of this subdivision and any large capacity ammunition feeding device that was legally possessed by an individual prior to the enactment of the chapter of the laws of two thousand thirteen which added this paragraph, *may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported to the entity wherein the weapon is registered within seventy-two hours of such transfer*. An individual who transfers any such weapon or large capacity ammunition device to an individual inside New York State or without complying with the provisions of this paragraph shall be guilty of a class a misdemeanor unless such large capacity ammunition feeding device, the possession of which is made illegal by the chapter of the laws of two thousand thirteen which added this



paragraph, is transferred within one year of the effective date of the chapter of the laws of two thousand thirteen which added this paragraph.

S 38. Subdivision 23 of section 265.00 of the penal law, as added by Chapter 189 of the laws of 2000, is amended to read as follows: “23. Large capacity ammunition feeding device” means a magazine, belt, drum, feed strip, or similar device, that (a) has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition, or (b) contains more than seven rounds of ammunition, or (c) is obtained after the effective date of the chapter of the laws of two thousand thirteen which amended this subdivision and has a capacity of, or that can be readily restored or converted to accept, more than seven rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least fifty years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision sixteen-a of Section 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within thirty days of their transfer into the state. Notwithstanding paragraph (h) of subdivision twenty-two of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of Section 400.03 of this chapter including the check required to be conducted pursuant to such section.” (End of the new “assault weapon” definition)

6. Any “mental health professional,” who believes a mental health patient makes a credible threat, to use a gun, *would be required* to report it, to a “mental health director,” who *must* notify the state. Such a patient’s guns would, then, be *automatically* taken, from him or her and s/he would be barred from future gun possession, under this feature. “Mental health professional” is defined as: *“shall include a physician, psychologist, registered nurse or licensed clinical social worker.”*

7. The legislation also increases sentences, for certain types of “gun” crimes, including the shooting of a first responder, which Cuomo called the “Webster provision.” Last month, in the western New York town of Webster, two firefighters were killed, after responding to a fire, set by the shooter, who, eventually, killed himself. *This provision, essentially, tells the shooter to go after any available civilians, since the penalty will be less.*

Lastly, the good news: As of the writing of this analysis, four (4) lawsuits have been prepared but not yet filed, each designed to be heard in federal courts, each separately challenging the Constitutionality of different parts of the law, on different grounds. Each of those lawsuits has requested, also, that the courts agree to provide injunctions, prohibiting the implementation of this law, until such time as the courts have decide the validity of each of the contested areas.

Regardless of the initial decisions, in the federal courts, it is guaranteed that one side or the other will appeal those decisions, to the US Supreme Court.

Therefore, if the requested injunctive relief is granted, implementation could be delayed, for at least one year, perhaps forever, if the Supreme Court rules in our favor.

SASI will keep you posted, as things progress.