

1 C. D. Michel – SBN 144258
2 cmichel@michellawyers.com
3 Sean A. Brady – SBN 262007
4 sbrady@michellawyers.com
5 Matthew D. Cubeiro – SBN 291519
6 mcubeiro@michellawyers.com
7 MICHEL & ASSOCIATES, P.C.
8 180 East Ocean Boulevard, Suite 200
9 Long Beach, CA 90802
10 Telephone: 562-216-4444
11 Facsimile: 562-216-4445

12 Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,

Plaintiffs,

vs.

XAVIER BECERRA, in his official
capacity as Attorney General of the
State of California,

Defendant.

Case No.: 8:17-cv-00746-JLS-JDE

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Hearing Date: May 31, 2019
Hearing Time: 10:30 a.m.
Courtroom: 10A
Judge: Josephine L. Staton

[Filed concurrently with Notice of
Motion for Summary Judgment,
Memorandum of Points and Authorities,
Statement of Uncontroverted Facts and
Conclusions of Law, Declarations of
Sean A. Brady, Steven Rupp, Steven
Dember, Cheryl Johnson, Christopher
Seifert, Alfonso Valencia, Troy Willis,
Michael Jones, Dennis Martin, and
Richard Travis]

REQUEST FOR JUDICIAL NOTICE

Under Federal Rule of Evidence 201, Plaintiffs Steven Rupp, Steven Dember, Cheryl Johnson, Michael Jones, Christopher Seifert, Alfonso Valencia, Troy Willis, Dennis Martin, and the California Rifle & Pistol Association, Incorporated, respectfully request that the Court take judicial notice of the following documents in support of Plaintiffs' motion for summary judgment:

1. **Conn. Gen. Stat. §§ 53-202a through 53-202k.** A true and correct copy of this document is attached as **Exhibit 1**. Exhibit 1 is a public record of the Connecticut Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully searchable online legal database.

2. **D.C. Code Ann. §§ 7-2501.01(3A), 7-2502.02(a)(6).** A true and correct copy of this document is attached as **Exhibit 2**. Exhibit 2 is a public record of the Federal Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully searchable online legal database.

3. **Haw. Rev. Stat. Ann. §§ 134-1, 134-8.** A true and correct copy of this document is attached as **Exhibit 3**. Exhibit 3 is a public record of the Hawaii Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully searchable online legal database.

4. **Md. Code Ann., Crim. Law §§ 4-301, 4-303.** A true and correct copy of this document is attached as **Exhibit 4**. Exhibit 4 is a public record of the Maryland Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully searchable online legal database.

5. **Mass. Gen. Laws ch. 140, §§ 121, 131M.** A true and correct copy of this document is attached as **Exhibit 5**. Exhibit 5 is a public record of the Massachusetts Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully searchable online legal database.

6. **N.J. Stat. Ann. §§ 2C:39-1w, 2C:39-3.** A true and correct copy of this document is attached as **Exhibit 6**. Exhibit 6 is a public record of the New Jersey

1 Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully
2 searchable online legal database.

3 7. **N.Y. Penal Law §§ 265.00(22), 265.02(7).** A true and correct copy of
4 this document is attached as **Exhibit 7**. Exhibit 7 is a public record of the New York
5 Legislature that was accessed on or about March 25, 2019, from Westlaw, a fully
6 searchable online legal database.

7 8. **The Violent Crime and Law Enforcement Act of 1994, Pub. L. 103-**
8 **322, 108 Stat. 1796.** A true and correct copy of this document is attached as **Exhibit**
9 **8**. Exhibit 8 is a public record of the United States Congress that was accessed on or
10 about March 25, 2019, from Congress.gov, the official website for U.S. federal
11 legislative information ([https://www.congress.gov/103/bills/hr3355/BILLS-](https://www.congress.gov/103/bills/hr3355/BILLS-103hr3355enr.pdf)
12 [103hr3355enr.pdf](https://www.congress.gov/103/bills/hr3355/BILLS-103hr3355enr.pdf)).
13

14 Judicial notice is proper because the documents for which this request is made
15 are “capable of accurate and ready determination by resort to sources whose accuracy
16 cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). “A trial court may
17 presume that public records are authentic and trustworthy.” *Gilbrook v. City of*
18 *Westminster*, 177 F.3d 839, 858 (9th Cir. 1999) (taking judicial notice of agency
19 report). A court shall take judicial notice of such a fact if requested by a party and
20 supplied with the necessary information. Fed. R. Evid. 201(d).

21 “Legislative history is properly a subject of judicial notice.” *Anderson v.*
22 *Holder*, 673 F.3d 1089, 1094 n.1 (9th Cir. 2012); *Chaker v. Crogan*, 428 F.3d 1215,
23 1223 n.8 (9th Cir. 2005) (discussing legislative history of California statute).
24 Further, “a federal court must take judicial notice of state statutes ‘without plea or
25 proof.’” *Getty Petroleum Mktg., Inc. v. Capital Terminal Co.*, 391 F.3d 312, 323 (1st
26 Cir. 2004) (citing *Lamar v. Micou*, 114 U.S. 218, 223 (1885)).

27 Here, the accuracy of all the public records subject to Plaintiffs’ Request for
28 Judicial Notice, consisting of enacted legislation and legislative history, cannot

1 reasonably be questioned. Judicial notice of these records is therefore appropriate.

2
3 Dated: March 25, 2019

MICHEL & ASSOCIATES, P.C.

4
5 /s/Sean A. Brady

6 Sean A. Brady

7 Attorneys for Plaintiffs
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EXHIBIT 1



KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or PreemptedHeld Unconstitutional by [New York State Rifle and Pistol Ass'n, Inc. v. Cuomo](#), 2nd Cir.(Conn.), Oct. 19, 2015[Connecticut General Statutes Annotated](#)[Title 53. Crimes \(Refs & Annos\)](#)[Chapter 943. Offenses Against Public Peace and Safety](#)

C.G.S.A. § 53-202a

§ 53-202a. Assault weapons: Definitions

Effective: June 18, 2013

[Currentness](#)As used in this section and [sections 53-202b to 53-202k](#), inclusive:

(1) “Assault weapon” means:

(A) (i) Any selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user or any of the following specified semiautomatic firearms: Algimec Agmi; Armalite AR-180; Australian Automatic Arms SAP Pistol; Auto-Ordnance Thompson type; Avtomat Kalashnikov AK-47 type; Barrett Light-Fifty model 82A1; Beretta AR-70; Bushmaster Auto Rifle and Auto Pistol; Calico models M-900, M-950 and 100-P; Chartered Industries of Singapore SR-88; Colt AR-15 and Sporter; Daewoo K-1, K-2, Max-1 and Max-2; Encom MK-IV, MP-9 and MP-45; Fabrique Nationale FN/FAL, FN/LAR, or FN/FNC; FAMAS MAS 223; Feather AT-9 and Mini-AT; Federal XC-900 and XC-450; Franchi SPAS-12 and LAW-12; Galil AR and ARM; Goncz High-Tech Carbine and High-Tech Long Pistol; Heckler & Koch HK-91, HK-93, HK-94 and SP-89; Holmes MP-83; MAC-10, MAC-11 and MAC-11 Carbine type; Intratec TEC-9 and Scorpion; Iver Johnson Enforcer model 3000; Ruger Mini-14/5F folding stock model only; Scarab Skorpion; SIG 57 AMT and 500 series; Spectre Auto Carbine and Auto Pistol; Springfield Armory BM59, SAR-48 and G-3; Sterling MK-6 and MK-7; Steyr AUG; Street Sweeper and Striker 12 revolving cylinder shotguns; USAS-12; UZI Carbine, Mini-Carbine and Pistol; Weaver Arms Nighthawk; Wilkinson “Linda” Pistol;

(ii) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in subparagraph (A)(i) of this subdivision, or any combination of parts from which an assault weapon, as defined in subparagraph (A)(i) of this subdivision, may be rapidly assembled if those parts are in the possession or under the control of the same person;

(B) Any of the following specified semiautomatic centerfire rifles, or copies or duplicates thereof with the capability of any such rifles, that were in production prior to or on April 4, 2013: (i) AK-47; (ii) AK-74; (iii) AKM; (iv) AKS-74U; (v) ARM; (vi) MAADI AK47; (vii) MAK90; (viii) MISR; (ix) NHM90 and NHM91; (x) Norinco 56, 56S, 84S and 86S; (xi) Poly Technologies AKS and AK47; (xii) SA 85; (xiii) SA 93; (xiv) VEPR; (xv) WASR-10; (xvi) WUM; (xvii) Rock River Arms LAR-47; (xviii) Vector Arms AK-47; (xix) AR-10; (xx) AR-15; (xxi) Bushmaster Carbon 15, Bushmaster XM15, Bushmaster ACR Rifles, Bushmaster MOE Rifles; (xxii) Colt Match Target Rifles; (xxiii) Armalite M15; (xxiv) Olympic Arms AR-15, A1, CAR, PCR, K3B, K30R, K16, K48, K8 and K9 Rifles; (xxv) DPMS Tactical Rifles; (xxvi) Smith and Wesson M&P15 Rifles; (xxvii) Rock River Arms LAR-15; (xxviii) Doublestar AR Rifles; (xxix) Barrett REC7; (xxx) Beretta Storm; (xxxi) Calico Liberty 50, 50 Tactical, 100, 100 Tactical, I, I Tactical, II and II Tactical Rifles; (xxxii) Hi-

Point Carbine Rifles; (xxxiii) HK-PSG-1; (xxxiv) Kel-Tec Sub-2000, SU Rifles, and RFB; (xxxv) Remington Tactical Rifle Model 7615; (xxxvi) SAR-8, SAR-4800 and SR9; (xxxvii) SLG 95; (xxxviii) SLR 95 or 96; (xxxix) TNW M230 and M2HB; (xl) Vector Arms UZI; (xli) Galil and Galil Sporter; (xlii) Daewoo AR 100 and AR 110C; (xliii) Fabrique Nationale/FN 308 Match and L1A1 Sporter; (xliv) HK USC; (xlv) IZHMASH Saiga AK; (xlvi) SIG Sauer 551-A1, 556, 516, 716 and M400 Rifles; (xlvii) Valmet M62S, M71S and M78S; (xlviii) Wilkinson Arms Linda Carbine; and (xlix) Barrett M107A1;

(C) Any of the following specified semiautomatic pistols, or copies or duplicates thereof with the capability of any such pistols, that were in production prior to or on April 4, 2013: (i) Centurion 39 AK; (ii) Draco AK-47; (iii) HCR AK-47; (iv) IO Inc. Hellpup AK-47; (v) Mini-Draco AK-47; (vi) Yugo Krebs Krink; (vii) American Spirit AR-15; (viii) Bushmaster Carbon 15; (ix) Doublestar Corporation AR; (x) DPMS AR-15; (xi) Olympic Arms AR-15; (xii) Rock River Arms LAR 15; (xiii) Calico Liberty III and III Tactical Pistols; (xiv) Masterpiece Arms MPA Pistols and Velocity Arms VMA Pistols; (xv) Intratec TEC-DC9 and AB-10; (xvi) Colefire Magnum; (xvii) German Sport 522 PK and Chiappa Firearms Mfour-22; (xviii) DSA SA58 PKP FAL; (xix) I.O. Inc. PPS-43C; (xx) Kel-Tec PLR-16 Pistol; (xxi) Sig Sauer P516 and P556 Pistols; and (xxii) Thompson TA5 Pistols;

(D) Any of the following semiautomatic shotguns, or copies or duplicates thereof with the capability of any such shotguns, that were in production prior to or on April 4, 2013: All IZHMASH Saiga 12 Shotguns;

(E) Any semiautomatic firearm regardless of whether such firearm is listed in subparagraphs (A) to (D), inclusive, of this subdivision, and regardless of the date such firearm was produced, that meets the following criteria:

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

(I) A folding or telescoping stock;

(II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing;

(III) A forward pistol grip;

(IV) A flash suppressor; or

(V) A grenade launcher or flare launcher; or

(ii) A semiautomatic, centerfire rifle that has a fixed magazine with the ability to accept more than ten rounds; or

(iii) A semiautomatic, centerfire rifle that has an overall length of less than thirty inches; or

- (iv) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following:
 - (I) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip;
 - (II) A threaded barrel capable of accepting a flash suppressor, forward pistol grip or silencer;
 - (III) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel; or
 - (IV) A second hand grip; or
 - (v) A semiautomatic pistol with a fixed magazine that has the ability to accept more than ten rounds; or
 - (vi) A semiautomatic shotgun that has both of the following:
 - (I) A folding or telescoping stock; and
 - (II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing; or
 - (vii) A semiautomatic shotgun that has the ability to accept a detachable magazine; or
 - (viii) A shotgun with a revolving cylinder; or
 - (ix) Any semiautomatic firearm that meets the criteria set forth in subdivision (3) or (4) of subsection (a) of section 53-202a of the general statutes, revision of 1958, revised to January 1, 2013; or
 - (F) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, or any combination of parts from which an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, may be assembled if those parts are in the possession or under the control of the same person;
- (2) “Assault weapon” does not include (A) any firearm modified to render it permanently inoperable, or (B) a part or any combination of parts of an assault weapon, that are not assembled as an assault weapon, when in the possession of a licensed gun dealer, as defined in subsection (f) of [section 53-202f](#), or a gunsmith who is in the licensed gun dealer's employ, for the purposes of servicing or repairing lawfully possessed assault weapons under sections 53-202a to [53-202k](#), inclusive;

(3) “Action of the weapon” means the part of the firearm that loads, fires and ejects a cartridge, which part includes, but is not limited to, the upper and lower receiver, charging handle, forward assist, magazine release and shell deflector;

(4) “Detachable magazine” means an ammunition feeding device that can be removed without disassembling the firearm action;

(5) “Firearm” means a firearm, as defined in [section 53a-3](#);

(6) “Forward pistol grip” means any feature capable of functioning as a grip that can be held by the nontrigger hand;

(7) “Lawfully possesses” means, with respect to an assault weapon described in any provision of subparagraphs (B) to (F), inclusive, of this subdivision, (A) actual possession that is lawful under [sections 53-202b to 53-202k](#), (B) constructive possession pursuant to a lawful purchase transacted prior to or on April 4, 2013, regardless of whether the assault weapon was delivered to the purchaser prior to or on April 4, 2013, which lawful purchase is evidenced by a writing sufficient to indicate that (i) a contract for sale was made between the parties prior to or on April 4, 2013, for the purchase of the assault weapon, or (ii) full or partial payment for the assault weapon was made by the purchaser to the seller of the assault weapon prior to or on April 4, 2013, or (C) actual possession under subparagraph (A) of this subdivision, or constructive possession under subparagraph (B) of this subdivision, as evidenced by a written statement made under penalty of false statement on such form as the Commissioner of Emergency Services and Public Protection prescribes;

(8) “Pistol grip” means a grip or similar feature that can function as a grip for the trigger hand; and

(9) “Second hand grip” means a grip or similar feature that can function as a grip that is additional to the trigger hand grip.

Credits

(1993, P.A. 93-306, § 1; 2001, P.A. 01-130, § 1; 2013, P.A. 13-3, § 25, eff. April 4, 2013; 2013, P.A. 13-220, §§ 3, 4, 21, eff. June 18, 2013.)

Editors' Notes


VALIDITY

<For validity of this section, see [New York State Rifle & Pistol Ass’n, Inc. v. Cuomo](#), 2015, 804 F.3d 242.>

Notes of Decisions (18)

C. G. S. A. § 53-202a, CT ST § 53-202a

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202b

§ 53-202b. Sale or transfer of assault weapon prohibited.
Exemptions. Olympic pistols. Regulations. Class C felony

Effective: June 18, 2013

[Currentness](#)

(a) (1) Any person who, within this state, distributes, transports or imports into the state, keeps for sale, or offers or exposes for sale, or who gives any assault weapon, except as provided by [sections 53-202a](#) to [53-202k](#), inclusive, shall be guilty of a class C felony and shall be sentenced to a term of imprisonment of which two years may not be suspended or reduced by the court.

(2) Any person who transfers, sells or gives any assault weapon to a person under eighteen years of age in violation of subdivision (1) of this subsection shall be sentenced to a term of imprisonment of six years, which shall not be suspended or reduced by the court and shall be in addition and consecutive to the term of imprisonment imposed under subdivision (1) of this subsection.

(b) The provisions of subsection (a) of this section shall not apply to:

(1) The sale of assault weapons to: (A) The Department of Emergency Services and Public Protection, police departments, the Department of Correction, the Division of Criminal Justice, the Department of Motor Vehicles, the Department of Energy and Environmental Protection or the military or naval forces of this state or of the United States; (B) a sworn and duly certified member of an organized police department, the Division of State Police within the Department of Emergency Services and Public Protection or the Department of Correction, a chief inspector or inspector in the Division of Criminal Justice, a salaried inspector of motor vehicles designated by the Commissioner of Motor Vehicles, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection pursuant to [section 26-5](#), or a constable who is certified by the Police Officer Standards and Training Council and appointed by the chief executive authority of a town, city or borough to perform criminal law enforcement duties, pursuant to a letter on the letterhead of such department, division, commissioner or authority authorizing the purchase and stating that the sworn member, inspector, officer or constable will use the assault weapon in the discharge of official duties, and that a records check indicates that the sworn member, inspector, officer or constable has not been convicted of a crime of family violence, for use by such sworn member, inspector, officer or constable in the discharge of such sworn member's, inspector's, officer's or constable's official duties or when off duty, (C) a member of the military or naval forces of this state or of the United States, or (D) a nuclear facility licensed by the United States Nuclear Regulatory Commission for the purpose of providing security services at such facility, or any contractor or subcontractor of such facility for the purpose of providing security services at such facility;

(2) A person who is the executor or administrator of an estate that includes an assault weapon for which a certificate of possession has been issued under [section 53-202d](#) which is disposed of as authorized by the Probate Court, if the disposition is otherwise permitted by [sections 53-202a](#) to [53-202k](#), inclusive;

(3) The transfer of an assault weapon for which a certificate of possession has been issued under [section 53-202d](#), by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon;

(4) The sale of a semiautomatic pistol that is defined as an assault weapon in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#) that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under this subdivision, and for which the purchaser signs a form prescribed by the commissioner and provided by the seller that indicates that the pistol will be used by the purchaser primarily for target shooting practice and events. The Commissioner of Emergency Services and Public Protection shall adopt regulations, in accordance with chapter 54,¹ to designate semiautomatic pistols that are defined as assault weapons in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#) that may be sold pursuant to this subdivision, provided the use of such pistols is sanctioned by the International Olympic Committee and USA Shooting, or any subsequent corresponding governing board for international shooting competition in the United States.

Credits

(1993, P.A. 93-306, § 2; 2011, P.A. 11-51, § 134(a), eff. July 1, 2011; 2013, P.A. 13-3, § 26, eff. April 4, 2013; 2013, P.A. 13-220, § 5, eff. June 18, 2013.)

Notes of Decisions (5)

Footnotes

¹ [C.G.S.A. § 4-166 et seq.](#)

C. G. S. A. § 53-202b, CT ST § 53-202b

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202c

§ 53-202c. Possession of assault weapon prohibited. Exemptions. Class D felony

Effective: June 18, 2013

Currentness

(a) Except as provided in [section 53-202e](#), any person who, within this state, possesses an assault weapon, except as provided in [sections 53-202a to 53-202k](#), inclusive, and [53-202o](#), shall be guilty of a class D felony and shall be sentenced to a term of imprisonment of which one year may not be suspended or reduced by the court, except that a first-time violation of this subsection shall be a class A misdemeanor if (1) the person presents proof that such person lawfully possessed the assault weapon (A) prior to October 1, 1993, with respect to an assault weapon described in [subparagraph \(A\) of subdivision \(1\) of section 53-202a](#), or (B) on April 4, 2013, under the provisions of [sections 53-202a to 53-202k](#), inclusive, in effect on January 1, 2013, with respect to an assault weapon described in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#), and (2) the person has otherwise possessed the assault weapon in compliance with subsection (f) of [section 53-202d](#).

(b) The provisions of subsection (a) of this section shall not apply to the possession of assault weapons by: (1) The Department of Emergency Services and Public Protection, police departments, the Department of Correction, the Division of Criminal Justice, the Department of Motor Vehicles, the Department of Energy and Environmental Protection or the military or naval forces of this state or of the United States, (2) a sworn and duly certified member of an organized police department, the Division of State Police within the Department of Emergency Services and Public Protection or the Department of Correction, a chief inspector or inspector in the Division of Criminal Justice, a salaried inspector of motor vehicles designated by the Commissioner of Motor Vehicles, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection pursuant to [section 26-5](#), or a constable who is certified by the Police Officer Standards and Training Council and appointed by the chief executive authority of a town, city or borough to perform criminal law enforcement duties, for use by such sworn member, inspector, officer or constable in the discharge of such sworn member's, inspector's, officer's or constable's official duties or when off duty, (3) a member of the military or naval forces of this state or of the United States, or (4) a nuclear facility licensed by the United States Nuclear Regulatory Commission for the purpose of providing security services at such facility, or any contractor or subcontractor of such facility for the purpose of providing security services at such facility.

(c) The provisions of subsection (a) of this section shall not apply to the possession of an assault weapon described in [subparagraph \(A\) of subdivision \(1\) of section 53-202a](#) by any person prior to July 1, 1994, if all of the following are applicable:

(1) The person is eligible under [sections 53-202a to 53-202k](#), inclusive, to apply for a certificate of possession for the assault weapon by July 1, 1994;

(2) The person lawfully possessed the assault weapon prior to October 1, 1993; and

(3) The person is otherwise in compliance with [sections 53-202a to 53-202k](#), inclusive.

(d) The provisions of subsection (a) of this section shall not apply to the possession of an assault weapon described in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#) by any person prior to April 5, 2013, if all of the following are applicable:

(1) The person is eligible under [sections 53-202a to 53-202k](#), inclusive, to apply for a certificate of possession for the assault weapon by January 1, 2014;

(2) The person lawfully possessed the assault weapon on April 4, 2013, under the provisions of [sections 53-202a to 53-202k](#), inclusive, in effect on January 1, 2013; and

(3) The person is otherwise in compliance with [sections 53-202a to 53-202k](#), inclusive.

(e) The provisions of subsection (a) of this section shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon, or the trustee of a trust that includes an assault weapon, for which a certificate of possession has been issued under [section 53-202d](#) if the assault weapon is possessed at a place set forth in [subdivision \(1\) of subsection \(f\) of section 53-202d](#) or as authorized by the Probate Court.

(f) The provisions of subsection (a) of this section shall not apply to the possession of a semiautomatic pistol that is defined as an assault weapon in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#) that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under [subdivision \(4\) of subsection \(b\) of section 53-202b](#) that is (1) possessed and transported in accordance with subsection (f) of [section 53-202d](#), or (2) possessed at or transported to or from a collegiate, Olympic or target pistol shooting competition in this state which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, provided such pistol is transported in the manner prescribed in subsection (a) of [section 53-202f](#).


Credits

(1993, P.A. 93-306, § 3; 2002, P.A. 02-120, § 5, eff. June 7, 2002; 2011, P.A. 11-51, § 134(a), eff. July 1, 2011; 2013, P.A. 13-3, § 27, eff. April 4, 2013; 2013, P.A. 13-220, § 6, eff. June 18, 2013.)

Notes of Decisions (7)

C. G. S. A. § 53-202c, CT ST § 53-202c

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202d

§ 53-202d. Certificate of possession of assault weapon. Certificate of transfer of assault weapon to gun dealer. Circumstances where possession of assault weapon authorized

Effective: October 1, 2015

Currentness

(a) (1) (A) Except as provided in subparagraph (B) of this subdivision, any person who lawfully possesses an assault weapon, as defined in [subparagraph \(A\) of subdivision \(1\) of section 53-202a](#), prior to October 1, 1993, shall apply by October 1, 1994, or, if such person is a member of the military or naval forces of this state or of the United States and is unable to apply by October 1, 1994, because such member is or was on official duty outside of this state, shall apply within ninety days of returning to the state to the Department of Emergency Services and Public Protection, for a certificate of possession with respect to such assault weapon.

(B) No person who lawfully possesses an assault weapon pursuant to [subdivision \(1\), \(2\) or \(4\) of subsection \(b\) of section 53-202c](#) shall be required to obtain a certificate of possession pursuant to this subdivision with respect to an assault weapon used for official duties, except that any person described in [subdivision \(2\) of subsection \(b\) of section 53-202c](#) who purchases an assault weapon, as defined in [subparagraph \(A\) of subdivision \(1\) of section 53-202a](#), for use in the discharge of official duties who retires or is otherwise separated from service shall apply within ninety days of such retirement or separation from service to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

(2) (A) Except as provided in subparagraph (B) of this subdivision, any person who lawfully possesses an assault weapon, as defined in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#), on April 4, 2013, under the provisions of [sections 53-202a to 53-202k](#), inclusive, in effect on January 1, 2013, or any person who regains possession of an assault weapon as defined in any provision of said subparagraphs pursuant to subsection (e) of [section 53-202f](#), or any person who lawfully purchases a firearm on or after April 4, 2013, but prior to June 18, 2013, that meets the criteria set forth in [subdivision \(3\) or \(4\) of subsection \(a\) of section 53-202a of the general statutes](#), revision of 1958, revised to January 1, 2013, shall apply by January 1, 2014, or, if such person is a member of the military or naval forces of this state or of the United States and is unable to apply by January 1, 2014, because such member is or was on official duty outside of this state, shall apply within ninety days of returning to the state to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon. Any person who lawfully purchases a semiautomatic pistol that is defined as an assault weapon in any provision of [subparagraphs \(B\) to \(F\), inclusive, of subdivision \(1\) of section 53-202a](#) that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under [subdivision \(4\) of subsection \(b\) of section 53-202b](#) shall apply within ninety days of such purchase to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

(B) No person who lawfully possesses an assault weapon pursuant to subdivision (1), (2) or (4) of subsection (b) of section 53-202c shall be required to obtain a certificate of possession pursuant to this subdivision with respect to an assault weapon used for official duties, except that any person described in subdivision (2) of subsection (b) of section 53-202c who purchases an assault weapon, as defined in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a for use in the discharge of official duties who retires or is otherwise separated from service shall apply within ninety days of such retirement or separation from service to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

(3) Any person who obtained a certificate of possession for an assault weapon, as defined in subparagraph (A) of subdivision (1) of section 53-202a, prior to April 5, 2013, that is defined as an assault weapon pursuant to any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a shall be deemed to have obtained a certificate of possession for such assault weapon for the purposes of sections 53-202a to 53-202k, inclusive, and shall not be required to obtain a subsequent certificate of possession for such assault weapon.

(4) The certificate of possession shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth and thumbprint of the owner, and any other information as the department may deem appropriate.

(5) The department shall adopt regulations, in accordance with the provisions of chapter 54,¹ to establish procedures with respect to the application for and issuance of certificates of possession pursuant to this section. Notwithstanding the provisions of sections 1-210 and 1-211, the name and address of a person issued a certificate of possession shall be confidential and shall not be disclosed, except such records may be disclosed to (A) law enforcement agencies and employees of the United States Probation Office acting in the performance of their duties and parole officers within the Department of Correction acting in the performance of their duties, and (B) the Commissioner of Mental Health and Addiction Services to carry out the provisions of subsection (c) of section 17a-500.

(b) (1) No assault weapon, as defined in subparagraph (A) of subdivision (1) of section 53-202a, possessed pursuant to a certificate of possession issued under this section may be sold or transferred on or after January 1, 1994, to any person within this state other than to a licensed gun dealer, as defined in subsection (f) of section 53-202f, or as provided in section 53-202e, or by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon.

(2) No assault weapon, as defined in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a, possessed pursuant to a certificate of possession issued under this section may be sold or transferred on or after April 5, 2013, to any person within this state other than to a licensed gun dealer, as defined in subsection (f) of section 53-202f, or as provided in section 53-202e, or by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon.

(c) Any person who obtains title to an assault weapon for which a certificate of possession has been issued under this section by bequest or intestate succession shall, within ninety days of obtaining title, apply to the Department of Emergency Services and Public Protection for a certificate of possession as provided in subsection (a) of this section, render the assault weapon permanently inoperable, sell the assault weapon to a licensed gun dealer or remove the assault weapon from the state.

(d) Any person who moves into the state in lawful possession of an assault weapon, shall, within ninety days, either render the assault weapon permanently inoperable, sell the assault weapon to a licensed gun dealer or remove the assault weapon from this state, except that any person who is a member of the military or naval forces of this state or of the United States, is in lawful possession of an assault weapon and has been transferred into the state after October 1, 1994, may, within ninety days of arriving in the state, apply to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

(e) If an owner of an assault weapon sells or transfers the assault weapon to a licensed gun dealer, such dealer shall, at the time of delivery of the assault weapon, execute a certificate of transfer and cause the certificate of transfer to be mailed or delivered to the Commissioner of Emergency Services and Public Protection. The certificate of transfer shall contain: (1) The date of sale or transfer; (2) the name and address of the seller or transferor and the licensed gun dealer, their Social Security numbers or motor vehicle operator license numbers, if applicable; (3) the licensed gun dealer's federal firearms license number and seller's permit number; (4) a description of the assault weapon, including the caliber of the assault weapon and its make, model and serial number; and (5) any other information the commissioner prescribes. The licensed gun dealer shall present such dealer's motor vehicle operator's license or Social Security card, federal firearms license and seller's permit to the seller or transferor for inspection at the time of purchase or transfer. The Commissioner of Emergency Services and Public Protection shall maintain a file of all certificates of transfer at the commissioner's central office.

(f) Any person who has been issued a certificate of possession for an assault weapon under this section may possess the assault weapon only under the following conditions:

(1) At that person's residence, place of business or other property owned by that person, or on property owned by another person with the owner's express permission;

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets;

(3) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range;

(4) While on the premises of a licensed shooting club;

(5) While attending any exhibition, display or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms;

(6) While transporting the assault weapon between any of the places set forth in this subsection, or to any licensed gun dealer, as defined in subsection (f) of [section 53-202f](#), for servicing or repair pursuant to subsection (c) of [section 53-202f](#), provided the assault weapon is transported as required by [section 53-202f](#);

(7) With respect to a nonresident of this state, while transporting a semiautomatic pistol that is defined as an assault weapon in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under subdivision (4) of subsection (b) of section 53-202b, into or through this state in order to attend any exhibition, display or educational project described in subdivision (5) of this subsection, or to participate in a collegiate, Olympic or target pistol shooting competition in this state which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, provided (A) such pistol is transported into or through this state not more than forty-eight hours prior to or after such exhibition, display, project or competition, (B) such pistol is unloaded and carried in a locked carrying case and the ammunition for such pistol is carried in a separate locked container, (C) such nonresident has not been convicted of a felony in this state or of an offense in another state that would constitute a felony if committed in this state, and (D) such nonresident has in his or her possession a pistol permit or firearms registration card if such permit or card is required for possession of such pistol under the laws of his or her state of residence.

Credits

(1993, P.A. 93-306, § 4; 1994, July Sp.Sess., P.A. 94-1, § 19, eff. July 7, 1994; 1998, P.A. 98-129, § 8; 2011, P.A. 11-51, § 170, eff. July 1, 2011; 2012, P.A. 12-177, § 3; 2013, P.A. 13-3, § 28, eff. April 4, 2013; 2013, P.A. 13-220, §§ 7, 8, eff. June 18, 2013; 2015, P.A. 15-216, § 5.)

Notes of Decisions (1)

Footnotes

¹ C.G.S.A. § 4-166 et seq.

C. G. S. A. § 53-202d, CT ST § 53-202d

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202e

§ 53-202e. Relinquishment of assault weapon to law enforcement agency

Effective: June 15, 2012

[Currentness](#)

Any individual may arrange in advance to relinquish an assault weapon to a police department or the Department of Emergency Services and Public Protection. The assault weapon shall be transported in accordance with the provisions of [section 53-202f](#).

Credits


(1993, P.A. 93-306, § 5; 2012, June 12 Sp.Sess., P.A. 12-2, § 115, eff. June 15, 2012.)

C. G. S. A. § 53-202e, CT ST § 53-202e

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

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 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202f

§ 53-202f. Transportation and transfer of assault weapon. Authorized actions
of gun dealer, manufacturer, pawnbroker or consignment shop operator

Effective: October 1, 2013

[Currentness](#)

(a) While transporting an assault weapon between any of the places set forth in subdivisions (1) to (6), inclusive, of subsection (f) of [section 53-202d](#), no person shall carry a loaded assault weapon concealed from public view or knowingly have, in any motor vehicle owned, operated or occupied by such person (1) a loaded assault weapon, or (2) an unloaded assault weapon unless such weapon is kept in the trunk of such vehicle or in a case or other container which is inaccessible to the operator of such vehicle or any passenger in such vehicle. The provisions of this subsection shall not apply to a member, inspector, officer or constable that possesses an assault weapon pursuant to [subdivision \(2\) of subsection \(b\) of section 53-202c](#). Any person who violates the provisions of this subsection shall be guilty of a class E felony.

(b) Any licensed gun dealer, as defined in subsection (f) of this section, who lawfully possesses an assault weapon pursuant to [section 53-202d](#), in addition to the uses allowed in [section 53-202d](#), may transport the assault weapon between dealers or out of the state, display the assault weapon at any gun show licensed by a state or local governmental entity or sell the assault weapon to a resident outside the state. Any transporting of the assault weapon allowed by this subsection must be done as required by subsection (a) of this section.

(c) (1) Any licensed gun dealer, as defined in subsection (f) of this section, or a federally-licensed firearm manufacturer may take possession of any assault weapon for the purposes of servicing or repair from any person to whom has been issued a certificate of possession for such weapon pursuant to [sections 53-202a to 53-202k](#), inclusive.

(2) Any licensed gun dealer may transfer possession of any assault weapon received pursuant to subdivision (1) of this subsection to a gunsmith for purposes of accomplishing service or repair of the same. Such transfers are permissible only to the following persons:

(A) A gunsmith who is in the licensed gun dealer's employ; or

(B) A gunsmith with whom the dealer has contracted for gunsmithing services, provided the gunsmith receiving the assault weapon holds a dealer's license issued pursuant to Chapter 44, commencing with [Section 921, of Title 18 of the United States Code](#) and the regulations issued pursuant thereto.

(d) Not later than December 31, 2013, any person who lawfully possessed an assault weapon described in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a on April 4, 2013, which was lawful under the provisions of sections 53-202a to 53-202k, inclusive, in effect on January 1, 2013, may transfer possession of the assault weapon to a licensed gun dealer within or outside of this state for sale outside of this state, and may transport the assault weapon to such dealer for the purpose of making such transfer, without obtaining a certificate of possession under section 53-202d.

(e) Not later than October 1, 2013, any licensed gun dealer, pawnbroker licensed under section 21-40, or consignment shop operator, as defined in section 21-39a, may transfer possession of an assault weapon to any person who (1) legally possessed the assault weapon prior to or on April 4, 2013, (2) placed the assault weapon in the possession of such dealer, pawnbroker or operator prior to or on April 4, 2013, pursuant to an agreement between such person and such dealer, pawnbroker or operator for the sale of the assault weapon to a third person, and (3) is eligible to possess a firearm on the date of such transfer.

(f) The term “licensed gun dealer”, as used in sections 53-202a to 53-202k, inclusive, means a person who has a federal firearms license and a permit to sell firearms pursuant to section 29-28.

Credits

(1993, P.A. 93-306, § 6; 2013, P.A. 13-3, § 29, eff. April 4, 2013; 2013, P.A. 13-220, § 9, eff. June 18, 2013; 2013, P.A. 13-258, § 29.)

C. G. S. A. § 53-202f, CT ST § 53-202f

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202g

§ 53-202g. Report of loss or theft of assault weapon or other firearm. Penalty

Effective: October 1, 2013

Currentness

(a) Any person who lawfully possesses an assault weapon under [sections 53-202a to 53-202k](#), inclusive, or a firearm, as defined in [section 53a-3](#), that is lost or stolen from such person shall report the loss or theft to the organized local police department for the town in which the loss or theft occurred or, if such town does not have an organized local police department, to the state police troop having jurisdiction for such town within seventy-two hours of when such person discovered or should have discovered the loss or theft. Such department or troop shall forthwith forward a copy of such report to the Commissioner of Emergency Services and Public Protection. The provisions of this subsection shall not apply to the loss or theft of an antique firearm as defined in [section 29-37a](#).

(b) Any person who fails to make a report required by subsection (a) of this section, within the prescribed time period shall commit an infraction and be fined not more than ninety dollars for a first offense and be guilty of a class C felony for any subsequent offense, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class B felony. Any person who violates subsection (a) of this section for the first offense shall not lose such person's right to hold or obtain any firearm permit under the general statutes.

Credits

(1993, P.A. 93-306, § 7; 2007, P.A. 07-163, § 1; 2011, P.A. 11-51, § 134(a), eff. July 1, 2011; 2013, P.A. 13-3, § 12, eff. April 4, 2013; 2013, P.A. 13-3, § 50.)

C. G. S. A. § 53-202g, CT ST § 53-202g

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Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202h

§ 53-202h. Temporary transfer or possession of assault weapon for transport to out-of-state event

Currentness

The provisions of subsection (a) of [section 53-202b](#) and subsection (a) of [section 53-202c](#) shall not apply to the temporary transfer or possession of an assault weapon, for which a certificate of possession has been issued pursuant to [section 53-202d](#), for purposes of transporting such weapon to and from any shooting competition or exhibition, display or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, which competition, exhibition, display or educational project is held outside this state.

Credits

(1993, P.A. 93-306, § 10.)

C. G. S. A. § 53-202h, CT ST § 53-202h

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Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202i

§ 53-202i. Circumstances in which manufacture, transportation
or temporary transfer of assault weapons not prohibited

Effective: June 18, 2013

Currentness

Nothing in [sections 53-202a to 53-202k](#), inclusive, shall be construed to prohibit a federally-licensed firearm manufacturer engaged in the business of manufacturing assault weapons in this state from (1) manufacturing or transporting assault weapons in this state for sale within this state in accordance with [subdivision \(1\) of subsection \(b\) of section 53-202b](#) or for sale outside this state, or (2) transporting and temporarily transferring assault weapons to and from a third party for the sole purpose of permitting the third party to perform a function in the manufacturing production process.

Credits

(1993, P.A. 93-306, § 11; 2013, P.A. 13-3, § 30, eff. April 4, 2013; 2013, P.A. 13-220, § 10, eff. June 18, 2013.)

C. G. S. A. § 53-202i, CT ST § 53-202i

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

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Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202j

§ 53-202j. Commission of a class A, B or C felony with an assault weapon: Eight-year nonsuspendable sentence

Currentness

Any person who commits any class A, B or C felony and in the commission of such felony uses, or is armed with and threatens the use of, or displays, or represents by his words or conduct that he possesses an assault weapon, as defined in [section 53-202a](#), shall be imprisoned for a term of eight years, which shall not be suspended or reduced and shall be in addition and consecutive to any term of imprisonment imposed for conviction of such felony.

Credits

(1993, P.A. 93-306, § 8.)

C. G. S. A. § 53-202j, CT ST § 53-202j

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Connecticut General Statutes Annotated
Title 53. Crimes (Refs & Annos)
Chapter 943. Offenses Against Public Peace and Safety

C.G.S.A. § 53-202k

§ 53-202k. Commission of a class A, B or C felony with a firearm: Five-year nonsuspendable sentence

Currentness

Any person who commits any class A, B or C felony and in the commission of such felony uses, or is armed with and threatens the use of, or displays, or represents by his words or conduct that he possesses any firearm, as defined in [section 53a-3](#), except an assault weapon, as defined in [section 53-202a](#), shall be imprisoned for a term of five years, which shall not be suspended or reduced and shall be in addition and consecutive to any term of imprisonment imposed for conviction of such felony.

Credits

(1993, P.A. 93-306, § 9.)

Notes of Decisions (82)

C. G. S. A. § 53-202k, CT ST § 53-202k

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

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EXHIBIT 2



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's District of Columbia Code Annotated 2001 Edition
Division I. Government of District.
Title 7. Human Health Care and Safety. (Refs & Annos)
Subtitle J. Public Safety.
Chapter 25. Firearms Control.
Unit A. Firearms Control Regulations.
Subchapter I. Definitions. (Refs & Annos)

DC ST § 7-2501.01

Formerly cited as DC ST 1981 § 6-2302

§ 7-2501.01. Definitions.

Effective: May 19, 2017

[Currentness](#)

As used in this unit the term:

(1) “Acts of Congress” means:

(A) Chapter 45 of Title 22;

(B) Omnibus Crime Control and Safe Streets Act of 1968, as amended (title VII, Unlawful Possession or Receipt of Firearms (82 Stat. 1236; 18 U.S.C. Appendix)); and

(C) An Act to Amend Title 18, United States Code, To Provide for Better Control of the Interstate Traffic in Firearms Act of 1968 (82 Stat. 1213; [18 U.S.C. § 921 et seq.](#)).

(2) “Ammunition” means cartridge cases, shells, projectiles (including shot), primers, bullets (including restricted pistol bullets), propellant powder, or other devices or materials designed, redesigned, or intended for use in a firearm or destructive device.

(3) “Antique firearm” means:

(A) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) Any replica of any firearm described in subparagraph (A) if such replica:

(i) Is not designed or redesigned for using rim-fire or conventional center-fire fixed ammunition; or

(ii) Uses rim-fire or conventional ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3A)(A) “Assault weapon” means:

(i) The following semiautomatic firearms:

(I) All of the following specified rifles:

(aa) All AK series including, but not limited to, the models identified as follows:

(1) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S;

(2) Norinco (all models);

(3) Poly Technologies (all models);

(4) MAADI AK47 and ARM; and

(5) Mitchell (all models).

(bb) UZI and Galil;

(cc) Beretta AR-70;

(dd) CETME Sporter;

(ee) Colt AR-15 series;

(ff) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110 C;

(gg) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter;

(hh) MAS 223.

(ii) HK-91, HK-93, HK-94, and HK-PSG-1;

(jj) The following MAC types:

(1) RPB Industries Inc. sM10 and sM11; and

(2) SWD Incorporated M11;

(kk) SKS with detachable magazine;

(ll) SIG AMT, PE-57, SG 550, and SG 551;

(mm) Springfield Armory BM59 and SAR-48;

(nn) Sterling MK-6;

(oo) Steyer AUG, Steyr AUG;

(pp) Valmet M62S, M71S, and M78S;

(qq) Armalite AR-180;

(rr) Bushmaster Assault Rifle;

(ss) Calico --900;

(tt) J&R ENG --68; and

(uu) Weaver Arms Nighthawk.

(II) All of the following specified pistols:

(aa) UZI;

(bb) Encom MP-9 and MP-45;

(cc) The following MAC types:

- (1) RPB Industries Inc. sM10 and sM11;
- (2) SWD Incorporated -11;
- (3) Advance Armament Inc. --11; and
- (4) Military Armament Corp. Ingram M-11;

(dd) Intratec TEC-9 and TEC-DC9;

(ee) Sites Spectre;

(ff) Sterling MK-7;

(gg) Calico M-950; and

(hh) Bushmaster Pistol.

(III) All of the following specified shotguns:

- (aa) Franchi SPAS 12 and LAW 12; and
- (bb) Striker 12. The Streetsweeper type S/S Inc. SS/12;

(IV) A semiautomatic, rifle that has the capacity to accept a detachable magazine and any one of the following:

- (aa) A pistol grip that protrudes conspicuously beneath the action of the weapon;
- (bb) A thumbhole stock;
- (cc) A folding or telescoping stock;
- (dd) A grenade launcher or flare launcher;

(ee) A flash suppressor; or

(ff) A forward pistol grip;

(V) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(aa) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;

(bb) A second handgrip;

(cc) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel; or

(dd) The capacity to accept a detachable magazine at some location outside of the pistol grip;

(VI) A semiautomatic shotgun that has one or more of the following:

(aa) A folding or telescoping stock;

(bb) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(cc) A thumbhole stock; or

(dd) A vertical handgrip; and

(VII) A semiautomatic shotgun that has the ability to accept a detachable magazine; and

(VIII) All other models within a series that are variations, with minor differences, of those models listed in subparagraph (A) of this paragraph, regardless of the manufacturer;

(ii) Any shotgun with a revolving cylinder; provided, that this sub-subparagraph shall not apply to a weapon with an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition; and

(iii) Any firearm that the Chief may designate as an assault weapon by rule, based on a determination that the firearm would reasonably pose the same or similar danger to the health, safety, and security of the residents of the District as those weapons enumerated in this paragraph.

(B) The term “assault weapon” shall not include:

(i) Any antique firearm; or

(ii) Any of the following pistols, which are designed expressly for use in Olympic target shooting events, sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and used for Olympic target shooting purposes:

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(C) The Chief may exempt, by rule, new models of competitive pistols that would otherwise fall within the definition of “assault weapon” pursuant to this section from being classified as an assault weapon. The exemption of competitive pistols shall be based either on recommendations by USA Shooting consistent with the regulations

contained in the USA Shooting Official Rules or on the recommendation or rules of any other organization that the Chief considers relevant.

(4) “Chief” means the Chief of Police of the Metropolitan Police Department of the District of Columbia or his designated agent.

(5) “Crime of violence” shall have the same meaning as provided in § 23-1331(4).

(6) “Dealer's license” means a license to buy or sell, repair, trade, or otherwise deal in firearms, destructive devices, or ammunition as provided for in subchapter IV of this unit.

(7) “Destructive device” means:

(A) An explosive, incendiary, or poison gas bomb, grenade, rocket, missile, mine, or similar device;

(B) Any device by whatever name known which will, or is designed or redesigned, or may be readily converted or restored to expel a projectile by the action of an explosive or other propellant through a smooth bore barrel, except a shotgun;

(C) Any device containing tear gas or a chemically similar lacrimator or sternutator by whatever name known;

(D) Repealed.

(E) Any combination of parts designed or intended for use in converting any device into any destructive device; or from which a destructive device may be readily assembled; provided, that the term shall not include:

(i) Any pneumatic, spring, or B-B gun which expels a single projectile not exceeding .18 inch in diameter;

(ii) Any device which is neither designed nor redesigned for use as a weapon;

(iii) Any device originally a weapon which has been redesigned for use as a signaling, line throwing, or safety device; or

(iv) Any device which the Chief finds is not likely to be used as a weapon.

(8) “District” means District of Columbia.

(8A) “.50 BMG rifle” means:

(A) A rifle capable of firing a center-fire cartridge in .50 BMG caliber, including a 12.7 mm equivalent of .50 BMG and any other metric equivalent; or

(B) A copy or duplicate of any rifle described in subparagraph (A) of this paragraph, or any other rifle developed and manufactured after January 6, 2009, regardless of caliber, if such rifle is capable of firing a projectile that attains a muzzle energy of 12,000 foot-pounds or greater in any combination of bullet, propellant, case, or primer.

(9) “Firearm” means any weapon, regardless of operability, which will, or is designed or redesigned, made or remade, readily converted, restored, or repaired, or is intended to, expel a projectile or projectiles by the action of an explosive; the frame or receiver of any such device; or any firearm muffler or silencer; provided, that such term shall not include:

(A) Antique firearms; or

(B) Destructive devices;

(C) Any device used exclusively for line throwing, signaling, or safety, and required or recommended by the Coast Guard or Interstate Commerce Commission;

(D) Any device used exclusively for firing explosive rivets, stud cartridges, or similar industrial ammunition and incapable for use as a weapon; or

(E) A stun gun.

(9A) “Firearms instructor” means an individual who is certified by the Chief to be qualified to teach firearms training and safety courses.

(9B) “Intrafamily offense” shall have the same meaning as provided in [§ 16-1001\(8\)](#).

(10) “Machine gun” means any firearm which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term “machine gun” shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a firearm into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(11) “Organization” means any partnership, company, corporation, or other business entity, or any group or association of 2 or more persons united for a common purpose.

(12) “Pistol” means any firearm originally designed to be fired by use of a single hand or with a barrel less than 12 inches in length.

(12A) “Place of business” means a business that is located in an immovable structure at a fixed location and that is operated and owned entirely, or in substantial part, by the firearm registrant.

(13) “Registration certificate” means a certificate validly issued pursuant to this unit evincing the registration of a firearm pursuant to this unit.

(13A)(A) “Restricted pistol bullet” means:

(i) A projectile or projectile core which may be used in a pistol and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium;

(ii) A full jacketed projectile larger than .22 caliber designed and intended for use in a pistol and whose jacket has a weight of more than 25% of the total weight of the projectile; or

(iii) Ammunition for a .50 BMG rifle.

(B) The term “restricted pistol bullet” does not include:

(i) Shotgun shot required by federal or state environmental or game regulations for hunting purposes;

(ii) A frangible projectile designed for target shooting;

(iii) A projectile which the Attorney General of the United States finds is primarily intended to be used for sporting purposes; or

(iv) Any other projectile or projectile core which the Attorney General of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(14) “Rifle” means a grooved bore firearm using a fixed metallic cartridge with a single projectile and designed or redesigned, made or remade, and intended to be fired from the shoulder.

(15) “Sawed-off shotgun” means a shotgun having a barrel of less than 18 inches in length; or a firearm made from a shotgun if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 18 inches in length.

(16) “Shotgun” means a smooth bore firearm using a fixed shotgun shell with either a number of ball shot or a single projectile, and designed or redesigned, made or remade, and intended to be fired from the shoulder.

(17) “Short barreled rifle” means a rifle having any barrel less than 16 inches in length, or a firearm made from a rifle if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 16 inches.

(17A) “Stun gun” means any device designed or redesigned, made or remade, or readily converted or restored, and used or intended to be used offensively or defensively to immobilize or incapacitate a person by the use of electric current or audible, optical, or electromagnetic pulse.

(18) “Weapons offense” means any violation in any jurisdiction of any law which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device.

Credits

(Sept. 24, 1976, D.C. Law 1-85, title I, § 101, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; Aug. 2, 1983, D.C. Law 5-19, § 2, 30 DCR 3328; Mar. 31, 2009, D.C. Law 17-372, § 3(a), 56 DCR 1365; Sept. 26, 2012, D.C. Law 19-170, § 2(a), 59 DCR 5691; Apr. 27, 2013, D.C. Law 19-295, § 2(a), 60 DCR 2623; May 19, 2017, D.C. Law 21-281, § 2(a), 64 DCR 1648.)

Notes of Decisions (12)

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DC CODE § 7-2501.01

Current through March 15, 2019



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version Held Unconstitutional by [Palmer v. District of Columbia](#), D.D.C., July 24, 2014



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's District of Columbia Code Annotated 2001 Edition
Division I. Government of District.
Title 7. Human Health Care and Safety. (Refs & Annos)
Subtitle J. Public Safety.
Chapter 25. Firearms Control.
Unit A. Firearms Control Regulations.
Subchapter II. Firearms and Destructive Devices.

DC ST § 7-2502.02

Formerly cited as DC ST 1981 § 6-2312

§ 7-2502.02. Registration of certain firearms prohibited.

Effective: June 16, 2015

[Currentness](#)

(a) A registration certificate shall not be issued for a:

(1) Sawed-off shotgun;

(2) Machine gun;

(3) Short-barreled rifle;

(4) Pistol not validly registered to the current registrant in the District prior to September 24, 1976, except that the prohibition on registering a pistol shall not apply to:

(A) Any organization that employs at least one commissioned special police officer or other employee licensed to carry a firearm and that arms the employee with a firearm during the employee's duty hours;

(B) A police officer who has retired from the Metropolitan Police Department;

(C) Any person who seeks to register a pistol:

(i) For use in self-defense within that person's home or place of business; or

(ii) As part of the application process for a license to carry a concealed pistol pursuant to [§ 7-2509.02](#); or

(D) A firearms instructor, or an organization that employs a firearms instructor, for the purpose of conducting firearms training.

(5) An unsafe firearm prohibited under § 7-2505.04;

(6) An assault weapon; or

(7) A .50 BMG rifle.

(b) Repealed.

Credits

(Sept. 24, 1976, D.C. Law 1-85, title II, § 202, 23 DCR 2464; Mar. 16, 1978, D.C. Law 2-62, § 2, 24 DCR 5780; May 7, 1993, D.C. Law 9-266, § 2(b), 39 DCR 5676; Mar. 31, 2009, D.C. Law 17-372, § 3(c), 56 DCR 1365; Sept. 26, 2012, D.C. Law 19-170, § 2(c), 59 DCR 5691; June 16, 2015, D.C. Law 20-279, § 2(b), 62 DCR 1944.)

Notes of Decisions (31)

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DC CODE § 7-2502.02

Current through March 15, 2019

EXHIBIT 3



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Hawai'i Revised Statutes Annotated
Division 1. Government
Title 10. Public Safety and Internal Security
Chapter 134. Firearms, Ammunition and Dangerous Weapons
Part I. General Regulations

HRS § 134-1

§ 134-1. Definitions

Currentness

As used in this chapter, unless the context indicates otherwise:

“Acquire” means gain ownership of.

“Antique pistol or revolver” means any pistol or revolver manufactured before 1899 and any replica thereof if it either is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or is designed or redesigned to use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

“Assault pistol” means a semiautomatic pistol that accepts a detachable magazine and has two or more of the following characteristics:

- (1) An ammunition magazine that attaches to the pistol outside of the pistol grip;
- (2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward hand grip, or silencer;
- (3) A shroud that is attached to or partially or completely encircles the barrel and permits the shooter to hold the firearm with the second hand without being burned;
- (4) A manufactured weight of fifty ounces or more when the pistol is unloaded;
- (5) A centerfire pistol with an overall length of twelve inches or more; or
- (6) It is a semiautomatic version of an automatic firearm;

but does not include a firearm with a barrel sixteen or more inches in length, an antique pistol as defined in this section, or a curio or relic as those terms are used in [18 United States Code section 921\(a\)\(13\)](#) or [27 Code of Federal Regulations section 478.11](#).

“Automatic firearm” means any firearm that shoots, is designed to shoot, or can be readily modified to shoot automatically more than one shot, without a manual reloading, by a single function of the trigger. This term shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or any combination of parts designed and intended, for use in converting a firearm into an automatic firearm, and any combination of parts from which an automatic firearm can be assembled if the parts are in the possession or under the control of a single person.

“Chief of police” means the chief of police of the counties of Hawaii, Maui, Kauai, or the city and county of Honolulu.

“Crime of violence” means any offense, as defined in title 37, that involves injury or threat of injury to the person of another, including sexual assault in the fourth degree under [section 707-733](#) and harassment by stalking under [section 711-1106.5](#).

“Electric gun” means any portable device that is electrically operated to project a missile or electromotive force. It does not include any electric livestock prod used in animal husbandry and any automatic external defibrillator used in emergency medical situations.

“Firearm” means any weapon, for which the operating force is an explosive, including but not limited to pistols, revolvers, rifles, shotguns, automatic firearms, noxious gas projectors, mortars, bombs, and cannon.

“Firearm loaded with ammunition” and “loaded firearm” means a firearm with ammunition present within the firing chamber, revolving cylinder, or within a magazine which is inserted in a firearm.

“Fugitive from justice” means any person (1) who has fled from any state, territory, the District of Columbia, or possession of the United States, to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding or (2) who has fled from any country other than the United States and is avoiding lawful extradition back to that country.

“Pistol” or “revolver” means any firearm of any shape with a barrel less than sixteen inches in length and capable of discharging loaded ammunition or any noxious gas.

“Public highway” shall have the same meaning as defined in [section 264-1\(a\)](#).

“Semiautomatic” means the mode of operation by which a firearm uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of a trigger.

Credits

Laws 1988, ch. 275, § 2; Laws 1988, ch. 271, § 2; Laws 1989, ch. 263, §§ 2, 3; [Laws 1990, ch. 195, § 1](#); [Laws 1992, ch. 286, § 1](#); [Laws 1994, ch. 204, § 2](#); [Laws 2001, ch. 252, § 2](#); [Laws 2016, ch. 55, § 1](#), eff. June 6, 2016; [Laws 2016, ch. 109, § 2](#), eff. June 22, 2016.

[Notes of Decisions \(15\)](#)

H R S § 134-1, HI ST § 134-1

Current through the end of the 2018 Second Special Session.



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Hawai'i Revised Statutes Annotated

Division 1. Government

Title 10. Public Safety and Internal Security

Chapter 134. Firearms, Ammunition and Dangerous Weapons

Part I. General Regulations

HRS § 134-8

§ 134-8. Ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties

Currentness

(a) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any of the following is prohibited: assault pistols, except as provided by [section 134-4\(e\)](#); automatic firearms; rifles with barrel lengths less than sixteen inches; shotguns with barrel lengths less than eighteen inches; cannons; mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms; hand grenades, dynamite, blasting caps, bombs, or bombshells, or other explosives; or any type of ammunition or any projectile component thereof coated with teflon or any other similar coating designed primarily to enhance its capability to penetrate metal or pierce protective armor; and any type of ammunition or any projectile component thereof designed or intended to explode or segment upon impact with its target.

(b) Any person who installs, removes, or alters a firearm part with the intent to convert the firearm to an automatic firearm shall be deemed to have manufactured an automatic firearm in violation of subsection (a).

(c) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of detachable ammunition magazines with a capacity in excess of ten rounds which are designed for or capable of use with a pistol is prohibited. This subsection shall not apply to magazines originally designed to accept more than ten rounds of ammunition which have been modified to accept no more than ten rounds and which are not capable of being readily restored to a capacity of more than ten rounds.

(d) Any person violating subsection (a) or (b) shall be guilty of a class C felony and shall be imprisoned for a term of five years without probation. Any person violating subsection (c) shall be guilty of a misdemeanor except when a detachable magazine prohibited under this section is possessed while inserted into a pistol in which case the person shall be guilty of a class C felony.

Credits

Laws 1988, ch. 275, § 2; Laws 1989, ch. 261, § 6; Laws 1989, ch. 263, § 4; [Laws 1992, ch. 286, §§ 3, 4](#).

[Notes of Decisions \(13\)](#)

HRS § 134-8, HI ST § 134-8

Current through the end of the 2018 Second Special Session.

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EXHIBIT 4



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version's Validity Called into Doubt by [Kolbe v. Hogan](#), 4th Cir.(Md.), Feb. 04, 2016



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

[West's Annotated Code of Maryland](#)

[Criminal Law \(Refs & Annos\)](#)

[Title 4. Weapon Crimes](#)

[Subtitle 3. Assault Weapons and Detachable Magazines \(Refs & Annos\)](#)

MD Code, Criminal Law, § 4-301

Formerly cited as MD CODE Art. 27, §36H-1

§ 4-301. Definitions

Effective: October 1, 2018

[Currentness](#)

In general

(a) In this subtitle the following words have the meanings indicated.

Assault long gun

(b) “Assault long gun” means any assault weapon listed under [§ 5-101\(r\)\(2\) of the Public Safety Article](#).

Assault pistol

(c) “Assault pistol” means any of the following firearms or a copy regardless of the producer or manufacturer:

- (1) AA Arms AP-9 semiautomatic pistol;
- (2) Bushmaster semiautomatic pistol;
- (3) Claridge HI-TEC semiautomatic pistol;
- (4) D Max Industries semiautomatic pistol;
- (5) Encom MK-IV, MP-9, or MP-45 semiautomatic pistol;
- (6) Heckler and Koch semiautomatic SP-89 pistol;
- (7) Holmes MP-83 semiautomatic pistol;

- (8) Ingram MAC 10/11 semiautomatic pistol and variations including the Partisan Avenger and the SWD Cobray;
- (9) Intratec TEC-9/DC-9 semiautomatic pistol in any centerfire variation;
- (10) P.A.W.S. type semiautomatic pistol;
- (11) Skorpion semiautomatic pistol;
- (12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);
- (13) UZI semiautomatic pistol;
- (14) Weaver Arms semiautomatic Nighthawk pistol; or
- (15) Wilkinson semiautomatic “Linda” pistol.

Assault weapon

(d) “Assault weapon” means:

- (1) an assault long gun;
- (2) an assault pistol; or
- (3) a copycat weapon.

Binary trigger system

(e) “Binary trigger system” means a device that, when installed in or attached to a firearm, fires both when the trigger is pulled and on release of the trigger.

Bump stock

(f) “Bump stock” means a device that, when installed in or attached to a firearm, increases the rate of fire of the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

Burst trigger system

(g) “Burst trigger system” means a device that, when installed in or attached to a firearm, allows the firearm to discharge two or more shots with a single pull of the trigger by altering the trigger reset.

Copycat weapon

(h)(1) “Copycat weapon” means:

(i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following:

1. a folding stock;
2. a grenade launcher or flare launcher; or
3. a flash suppressor;

(ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches;

(iv) a semiautomatic pistol with a fixed magazine that can accept more than 10 rounds;

(v) a semiautomatic shotgun that has a folding stock; or

(vi) a shotgun with a revolving cylinder.

(2) “Copycat weapon” does not include an assault long gun or an assault pistol.

Detachable magazine

(i) “Detachable magazine” means an ammunition feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.

Flash suppressor

(j) “Flash suppressor” means a device that functions, or is intended to function, to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

Hellfire trigger

(k) “Hellfire trigger” means a device that, when installed in or attached to a firearm, disengages the trigger return spring when the trigger is pulled.

Licensed firearms dealer

(l) “Licensed firearms dealer” means a person who holds a dealer's license under Title 5, Subtitle 1 of the Public Safety Article.

Rapid fire trigger activator

(m)(1) “Rapid fire trigger activator” means any device, including a removable manual or power-driven activating device, constructed so that, when installed in or attached to a firearm:

(i) the rate at which the trigger is activated increases; or

(ii) the rate of fire increases.

(2) “Rapid fire trigger activator” includes a bump stock, trigger crank, hellfire trigger, binary trigger system, burst trigger system, or a copy or a similar device, regardless of the producer or manufacturer.

(3) “Rapid fire trigger activator” does not include a semiautomatic replacement trigger that improves the performance and functionality over the stock trigger.

Trigger crank

(n) “Trigger crank” means a device that, when installed in or attached to a firearm, repeatedly activates the trigger of the firearm through the use of a crank, a lever, or any other part that is turned in a circular motion.

Credits

Added by [Acts 2002, c. 26, § 2, eff. Oct. 1, 2002](#). Amended by [Acts 2013, c. 427, § 1, eff. Oct. 1, 2013](#); [Acts 2018, c. 252, § 1, eff. Oct. 1, 2018](#).

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2002, c. 26):

This section is new language derived without substantive change from former Art. 27, § 36H-1.

In the introductory language of this section, the former word “specified” is deleted as surplusage.

Also in the introductory language of this section, the reference to the “producer or manufacturer” is substituted for the former reference to the “company [which] produced and manufactured the firearm” for brevity.

MD Code, Criminal Law, § 4-301, MD CRIM LAW § 4-301

Current through all legislation from the 2018 Regular Session of the General Assembly

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KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version's Validity Called into Doubt by [Kolbe v. Hogan](#), 4th Cir.(Md.), Feb. 04, 2016



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

[West's Annotated Code of Maryland](#)

[Criminal Law \(Refs & Annos\)](#)

[Title 4. Weapon Crimes](#)

[Subtitle 3. Assault Weapons and Detachable Magazines \(Refs & Annos\)](#)

MD Code, Criminal Law, § 4-303
Formerly cited as MD CODE Art. 27, § 36H-3

§ 4-303. Assault weapons--Prohibited

Effective: October 1, 2018

[Currentness](#)

In general

(a) Except as provided in subsection (b) of this section, a person may not:

- (1) transport an assault weapon into the State; or
- (2) possess, sell, offer to sell, transfer, purchase, or receive an assault weapon.

Exception

(b)(1) A person who lawfully possessed an assault pistol before June 1, 1994, and who registered the assault pistol with the Secretary of State Police before August 1, 1994, may:

- (i) continue to possess and transport the assault pistol; or
 - (ii) while carrying a court order requiring the surrender of the assault pistol, transport the assault pistol directly to a law enforcement unit, barracks, or station, a State or local law enforcement agency, or a federally licensed firearms dealer, as applicable, if the person has notified a law enforcement unit, barracks, or station that the person is transporting the assault pistol in accordance with a court order and the assault pistol is unloaded.
- (2) A licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the licensed firearms dealer lawfully possessed on or before October 1, 2013.
- (3) A person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, may:

- (i) possess and transport the assault long gun or copycat weapon; or
 - (ii) while carrying a court order requiring the surrender of the assault long gun or copycat weapon, transport the assault long gun or copycat weapon directly to a law enforcement unit, barracks, or station, a State or local law enforcement agency, or a federally licensed firearms dealer, as applicable, if the person has notified a law enforcement unit, barracks, or station that the person is transporting the assault long gun or copycat weapon in accordance with a court order and the assault long gun or copycat weapon is unloaded.
- (4) A person may transport an assault weapon to or from:
- (i) an ISO 17025 accredited, National Institute of Justice-approved ballistics testing laboratory; or
 - (ii) a facility or entity that manufactures or provides research and development testing, analysis, or engineering for personal protective equipment or vehicle protection systems.
- (5) A federally licensed firearms dealer may receive and possess an assault weapon received from a person in accordance with a court order to transfer firearms under [§ 6-234 of the Criminal Procedure Article](#).

Credits

Added by [Acts 2002, c. 26, § 2, eff. Oct. 1, 2002](#). Amended by [Acts 2010, c. 712, § 1, eff. Oct. 1, 2010](#); [Acts 2013, c. 427, § 1, eff. Oct. 1, 2013](#); [Acts 2018, c. 251, § 1, eff. Oct. 1, 2018](#).

Formerly Art. 27, § 36H-3.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2002, c. 26):

This section is new language derived without substantive change from former Art. 27, § 36H-3.

In the introductory language of subsection (a) of this section, the former phrase “[s]ubject to the provisions of this subheading” is deleted as redundant of [§ 4-302](#) of this subtitle, which specifies that the exemptions contained in that section apply to the entire subtitle.

Also in the introductory language of subsection (a) of this section, the former effective date “June 1, 1994” is deleted as obsolete.

In subsection (a)(2) of this section, the former phrase “in the State” is deleted because the State's jurisdiction is limited to activities within the State.

Defined terms: “Assault pistol” [§ 4-301](#)

“Person” § 1-101

Notes of Decisions (7)

MD Code, Criminal Law, § 4-303, MD CRIM LAW § 4-303

Current through all legislation from the 2018 Regular Session of the General Assembly

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EXHIBIT 5



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version Held Unconstitutional by [Com. v. Beal](#), Mass., May 24, 2016



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title XX. Public Safety and Good Order (Ch. 133-148a)

Chapter 140. Licenses (Refs & Annos)

M.G.L.A. 140 § 121

§ 121. Firearms sales; definitions; antique firearms; application of law; exceptions

Effective: August 17, 2018

[Currentness](#)

<[Introductory paragraph of first paragraph effective until August 17, 2018. For text effective August 17, 2018, see below.]>

As used in [sections 122 to 131Q](#), inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

<[Introductory paragraph of first paragraph as amended by 2018, 123, [Sec. 1](#) effective August 17, 2018. See 2018, 123, [Sec. 18](#). For text effective until August 17, 2018, see above.]>

As used in [sections 122 to 131Y](#), inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

“Ammunition”, cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term “ammunition” shall also mean tear gas cartridges.

“Assault weapon”, shall have the same meaning as a semiautomatic assault weapon as defined in the federal Public Safety and Recreational Firearms Use Protection Act, [18 U.S.C. section 921\(a\)\(30\)](#) as appearing in such section on September 13, 1994, and shall include, but not be limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: (i) Avtomat Kalashnikov (AK) (all models); (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta Ar70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (viii) revolving cylinder shotguns, such as, or similar to, the Street Sweeper and Striker 12; provided, however, that the term assault weapon shall not include: (i) any of the weapons, or replicas or duplicates of such weapons, specified in appendix A to [18 U.S.C. section 922](#) as appearing in such appendix on September 13, 1994, as such weapons were manufactured on October 1, 1993; (ii) any weapon that is operated by manual bolt, pump, lever or slide action; (iii) any weapon that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated a semiautomatic assault weapon; (iv) any weapon that was manufactured prior to the year 1899; (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable assault weapon; (vi) any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; or (vii) any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.

<[Definition of “Bump stock” in first paragraph applicable as provided by 2017, 110, [Sec. 53](#).]>

“Bump stock”, any device for a weapon that increases the rate of fire achievable with such weapon by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

“Conviction”, a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed.

<[Definition of “Court” inserted following definition of “Conviction” in first paragraph by 2018, 123, [Sec. 2](#) effective August 17, 2018. See 2018, 123, [Sec. 18](#).]>

“Court”, as used in [sections 131R to 131Y](#), inclusive, the division of the district court department or the Boston municipal court department of the trial court having jurisdiction in the city or town in which the respondent resides.

“Deceptive weapon device”, any device that is intended to convey the presence of a rifle, shotgun or firearm that is used in the commission of a violent crime, as defined in this section, and which presents an objective threat of immediate death or serious bodily harm to a person of reasonable and average sensibility.

<[Definitions of “Extreme risk protection order” and “Family or household member” inserted following definition of “Deceptive weapon device” in first paragraph by 2018, 123, [Sec. 3](#) effective August 17, 2018. See 2018, 123, [Sec. 18](#).]>

“Extreme risk protection order”, an order by the court ordering the immediate suspension and surrender of any license to carry firearms or firearm identification card which the respondent may hold and ordering the respondent to surrender all firearms, rifles, shotguns, machine guns, weapons or ammunition which the respondent then controls, owns or possesses; provided, however, that an extreme risk protection order shall be in effect for up to 1 year from the date of issuance and may be renewed upon petition.

“Family or household member”, a person who: (i) is or was married to the respondent; (ii) is or was residing with the respondent in the same household; (iii) is or was related by blood or marriage to the respondent; (iv) has or is having a child in common with the respondent, regardless of whether they have ever married or lived together; (v) is or has been in a substantive dating relationship with the respondent; or (vi) is or has been engaged to the respondent.

<[Definition of “Firearm” in first paragraph effective until July 3, 2018. For text effective July 3, 2018, see below.]>

“Firearm”, a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk- through metal detectors.

<[Definition of “Firearm” in first paragraph as amended by 2018, 123, [Sec. 4](#) effective July 3, 2018. For text effective until July 3, 2018, see above.]>

“Firearm”, a stun gun or a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk- through metal detectors.

“Gunsmith”, any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun.

“Imitation firearm”, any weapon which is designed, manufactured or altered in such a way as to render it incapable of discharging a shot or bullet.

“Large capacity feeding device”, (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, [18 U.S.C. section 921\(a\)\(31\)](#) as appearing in such section on September 13, 1994. The term “large capacity feeding device” shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber ammunition.

“Large capacity weapon”, any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is an assault weapon. The term “large capacity weapon” shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.

“Length of barrel” or “barrel length”, that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized and shall include the chamber.

“Licensing authority”, the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

<[Definition of “Machine gun” in first paragraph applicable as provided by 2017, 110, [Sec. 53](#).]>

“Machine gun”, a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, including a submachine gun; provided, however, that “machine gun” shall include bump stocks and trigger cranks.

<[Definitions of “Petition” and “Petitioner” inserted following definition of “Machine gun” in first paragraph by 2018, 123, [Sec. 5](#) effective August 17, 2018. See 2018, 123, [Sec. 18](#).]>

“Petition”, a request filed with the court by a petitioner for the issuance or renewal of an extreme risk protection order.

“Petitioner”, the family or household member, or the licensing authority of the municipality where the respondent resides, filing a petition.

“Purchase” and “sale” shall include exchange; the word “purchaser” shall include exchanger; and the verbs “sell” and “purchase”, in their different forms and tenses, shall include the verb exchange in its appropriate form and tense.

<[Definition of “Respondent” inserted following definition of “Purchase” in first paragraph by 2018, 123, [Sec. 6](#) effective August 17, 2018. See 2018, 123, [Sec. 18](#).]>

“Respondent”, the person identified as the respondent in a petition against whom an extreme risk protection order is sought.

“Rifle”, a weapon having a rifled bore with a barrel length equal to or greater than 16 inches and capable of discharging a shot or bullet for each pull of the trigger.

“Sawed-off shotgun”, any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon as modified has one or more barrels less than 18 inches in length or as modified has an overall length of less than 26 inches.

“Semiautomatic”, capable of utilizing a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and requiring a separate pull of the trigger to fire each cartridge.

“Shotgun”, a weapon having a smooth bore with a barrel length equal to or greater than 18 inches with an overall length equal to or greater than 26 inches, and capable of discharging a shot or bullet for each pull of the trigger.

<[Definitions of “Stun gun” and “Substantive dating relationship” inserted following definition of “Shotgun” in first paragraph by 2018, 123, [Sec. 7](#) effective July 3, 2018.]>

“Stun gun”, a portable device or weapon, regardless of whether it passes an electrical shock by means of a dart or projectile via a wire lead, from which an electrical current, impulse, wave or beam that is designed to incapacitate temporarily, injure or kill may be directed.

“Substantive dating relationship”, a relationship as determined by the court after consideration of the following factors: (i) the length of time of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the parties; and (iv) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

<[Definition of “Trigger crank” in first paragraph applicable as provided by 2017, 110, [Sec. 53](#).]>

“Trigger crank”, any device to be attached to a weapon that repeatedly activates the trigger of the weapon through the use of a lever or other part that is turned in a circular motion; provided, however, that “trigger crank” shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

“Violent crime”, shall mean any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult, that: (i) has as an element the use, attempted use or threatened use of physical force or

a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

“Weapon”, any rifle, shotgun or firearm.

Where the local licensing authority has the power to issue licenses or cards under this chapter, but no such licensing authority exists, any resident or applicant may apply for such license or firearm identification card directly to the colonel of state police and said colonel shall for this purpose be the licensing authority.

The provisions of [sections 122 to 129D](#), inclusive, and [sections 131, 131A, 131B and 131E](#) shall not apply to:

(A) any firearm, rifle or shotgun manufactured in or prior to the year 1899;

(B) any replica of any firearm, rifle or shotgun described in clause (A) if such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) manufacturers or wholesalers of firearms, rifles, shotguns or machine guns.

Credits

Amended by St.1934, c. 359, § 1; St.1957, c. 688, § 4; St.1959, c. 296, § 1; St.1960, c. 186; St.1968, c. 737, § 1; St.1969, c. 799, § 1; St.1971, c. 456, § 1; St.1973, c. 892, § 1; St.1983, c. 516, § 1; St.1984, c. 116, § 1; [St.1989, c. 433](#); [St.1990, c. 511, § 1](#); [St.1996, c. 151, §§ 300, 301](#); [St.1998, c. 180, § 8](#); [St.1999, c. 1, § 1](#); [St.2004, c. 150, §§ 1 to 3, eff. Sept. 13, 2004](#); [St.2014, c. 284, §§ 19, eff. Jan. 1, 2015](#); [St.2014, c. 284, §§ 20, 21, eff. Aug. 13, 2014](#); [St.2017, c. 110, §§ 18 to 20, eff. Feb. 1, 2018](#); [St.2018, c. 123, §§ 1 to 3, 5, 6, eff. Aug. 17, 2018](#); [St.2018, c. 123, §§ 4, 7, eff. July 3, 2018](#).

[Notes of Decisions \(110\)](#)

M.G.L.A. 140 § 121, MA ST 140 § 121

Current through the 2018 2nd Annual Session



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148a)
Chapter 140. Licenses (Refs & Annos)

M.G.L.A. 140 § 131M

§ 131M. Assault weapon or large capacity feeding device not lawfully
possessed on September 13, 1994; sale, transfer or possession; punishment

Effective: August 13, 2014

[Currentness](#)

No person shall sell, offer for sale, transfer or possess an assault weapon or a large capacity feeding device that was not otherwise lawfully possessed on September 13, 1994. Whoever not being licensed under the provisions of [section 122](#) violates the provisions of this section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.

The provisions of this section shall not apply to: (i) the possession by a law enforcement officer; or (ii) the possession by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving such a weapon or feeding device from such agency upon retirement.

Credits

Added by [St.1998, c. 180, § 47](#). Amended by [St.2014, c. 284, § 65, eff. Aug. 13, 2014](#).

M.G.L.A. 140 § 131M, MA ST 140 § 131M

Current through the 2018 2nd Annual Session

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EXHIBIT 6



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

New Jersey Statutes Annotated

Title 2c. The New Jersey Code of Criminal Justice (Refs & Annos)

Subtitle 2. Definition of Specific Offenses

Part 5. Offenses Against Public Order, Health and Decency

Chapter 39. Firearms, Other Dangerous Weapons and Instruments of Crime (Refs & Annos)

N.J.S.A. 2C:39-1

2C:39-1. Definitions

Effective: November 8, 2018

[Currentness](#)

Definitions. The following definitions apply to this chapter and to chapter 58:

- a. “Antique firearm” means any rifle or shotgun and “antique cannon” means a destructive device defined in paragraph (3) of subsection c. of this section, if the rifle, shotgun or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.
- b. “Deface” means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.
- c. “Destructive device” means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.
- d. “Dispose of” means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.
- e. “Explosive” means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom. A machine gun also shall include, without limitation, any firearm with a trigger crank attached.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

v. "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm.

w. "Assault firearm" means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types

FAMAS MAS223 types

FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

Franchi SPAS 12 and LAW 12 shotguns

G3SA type

Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

Intratec TEC 9 and 22 semi-automatic firearms

M1 carbine type

M14S type

MAC 10, MAC 11, MAC 11-9mm carbine type firearms

PJK M-68 carbine type

Plainfield Machine Company Carbine

Ruger K-Mini-14/5F and Mini-14/5RF

SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

SKS with detachable magazine type

Spectre Auto carbine type

Springfield Armory BM59 and SAR-48 type

Sterling MK-6, MK-7 and SAR types

Steyr A.U.G. semi-automatic firearms

USAS 12 semi-automatic type shotgun

Uzi type semi-automatic firearms

Valmet M62, M71S, M76, or M78 type semi-automatic firearms

Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 10 rounds. "Assault firearm" shall not include a semi-automatic rifle which has an attached tubular device and which is capable of operating only with .22 caliber rimfire ammunition.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

(6) A firearm with a bump stock attached.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 10 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm. The term shall not include an attached tubular device which is capable of holding only .22 caliber rimfire ammunition.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or

which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. “Trigger lock” means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.

cc. “Trigger locking device” means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

dd. “Personalized handgun” means a handgun which incorporates within its design, and as part of its original manufacture, technology which automatically limits its operational use and which cannot be readily deactivated, so that it may only be fired by an authorized or recognized user. The technology limiting the handgun's operational use may include, but not be limited to: radio frequency tagging, touch memory, remote control, fingerprint, magnetic encoding and other automatic user identification systems utilizing biometric, mechanical or electronic systems. No make or model of a handgun shall be deemed to be a “personalized handgun” unless the Attorney General has determined, through testing or other reasonable means, that the handgun meets any reliability standards that the manufacturer may require for its commercially available handguns that are not personalized or, if the manufacturer has no such reliability standards, the handgun meets the reliability standards generally used in the industry for commercially available handguns.

ee. “Bump stock” means any device or instrument for a firearm that increases the rate of fire achievable with the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

ff. “Trigger crank” means any device or instrument to be attached to a firearm that repeatedly activates the trigger of the firearm through the use of a lever or other part that is turned in a circular motion; provided, however, the term shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

gg. “Armor piercing ammunition” means: (1) a projectile or projectile core which may be used in a handgun and is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or (2) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. “Armor piercing ammunition” shall not include shotgun shot required by federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the United States Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the United States Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil gas well perforating device.

hh. “Covert firearm” means any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane.

ii. “Undetectable firearm” means a firearm that: (1) after removal of all parts other than major components, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or (2) includes a major component which, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component. “Undetectable firearm” shall not be construed to include a firearm subject to the provisions of paragraphs (3) through (6) of subsection (p) of [18 U.S.C. s.922](#).

jj. “Major component” means the slide or cylinder or the frame or receiver of a firearm and, in the case of a rifle or shotgun, also includes the barrel.

kk. “Security Exemplar” means the Security Exemplar fabricated in accordance with subparagraph (C) of paragraph (2) of subsection (p) of [18 U.S.C. s.922](#).

Credits

L.1978, c. 95, § 2C:39-1, eff. Sept. 1, 1979. Amended by L.1981, c. 363, § 1, eff. Dec. 30, 1981; L.1983, c. 479, § 1, eff. Jan. 12, 1984; L.1985, c. 360, § 1, eff. Nov. 12, 1985; L.1987, c. 228, § 1, eff. July 30, 1987; [L.1989, c. 120, § 1, eff. Aug. 1, 1989](#); [L.1990, c. 32, § 1, eff. May 30, 1990](#); [L.1999, c. 233, § 1, eff. Jan. 1, 2000](#); [L.1999, c. 255, § 1, eff. Oct. 15, 1999](#); [L.2002, c. 130, § 5, eff. Dec. 23, 2002](#); [L.2017, c. 323, § 1, eff. Jan. 16, 2018](#); [L.2018, c. 38, § 1, eff. June 13, 2018](#); [L.2018, c. 39, § 1, eff. June 13, 2018](#); [L.2018, c. 138, § 1, eff. Nov. 8, 2018](#).

Editors' Notes

2019 Electronic Update

ASSEMBLY JUDICIARY COMMITTEE STATEMENT WITH COMMITTEE AMENDMENTS

Senate Bill No. 2465 (First Reprint)--L.2018, c. 138

DATED: SEPTEMBER 17, 2018

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2465 (1R).

This bill, as amended, would establish the following crimes: (1) purchasing firearm parts to unlawfully manufacture firearms without a serial number; (2) manufacturing or possessing covert or undetectable firearms; and (3) manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

COVERT AND UNDETECTABLE FIREARMS (SECTIONS 1, 2 AND 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to: (1) manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert or undetectable firearm; (2) possess any covert or undetectable firearm; or (3) possess a firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.

The bill defines “covert firearm” as any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane. The bill defines “undetectable firearm” as a firearm constructed entirely of non-metal substances, or a firearm that does not include at least one major component, such as the barrel, slide, cylinder, frame or receiver of the firearm, that is made entirely of metal such that, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, it would not generate an image that accurately depicts the shape of the component.

FIREARMS WITHOUT SERIAL NUMBERS (SECTION 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to purchase firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Specifically, the bill prohibits a person who, with purpose to manufacture or otherwise assemble a firearm and without being registered or licensed to do so, from purchasing or otherwise obtaining separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled.

Under the bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism, and includes without limitation any object or part which is not a firearm frame or receiver in finished form but is designed or intended to be used for that purpose and which may readily be made into a firearm frame or receiver through milling or other means.

Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed-off shotgun, or assault firearm without a license to do so is a crime of the third degree.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

THREE-DIMENSIONAL PRINTING (SECTION 3 OF THE BILL)

The bill, as amended, makes it a crime of the third degree to manufacture or facilitate the manufacture of a firearm using a three-dimensional printer. More specifically it would be a crime for: (1) a person who is not registered or licensed to do so as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, to use a three-dimensional printer or similar device to manufacture or produce a firearm, firearm receiver, magazine, or firearm component; or (2) a person to distribute by any means, including the Internet, to a person in New Jersey who is not registered or licensed as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, digital instructions in the form of computer-aided design files or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a three-dimensional printer to manufacture or produce a firearm, firearm receiver, magazine, or firearm component.

The bill defines “three-dimensional printer” as a computer or computer-driven machine or device capable of producing a three-dimensional object from a digital model; and “distribute” means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share,

advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not, and includes an agreement or attempt to distribute.

A crime of the third degree is punishable by a term of incarceration of three to five years, a fine of up to \$15,000, or both.

The committee made technical amendments to the bill to conform the statute to the provisions of a recent enactment, P.L.2018, c.38, concerning armor piercing ammunition.

As reported by the committee, this bill is identical to Assembly Bill No. 3129 (1R) which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments:

1. Insert new section 1 amending N.J.S.2C:39-1 to add definitions of “covert firearm” and “undetectable firearm.”
2. Insert new section 2 amending [N.J.S.2C:39-3](#) making it a crime of the third degree to possess any covert firearm, undetectable firearm, or firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.
3. Amend section 3 (amends [N.J.S.2C:39-9](#)) as follows:
 - (a) Change the term “untraceable firearm” to “firearm without a serial number.”
 - (b) Make it a crime of third degree if a person, with the purpose to manufacture or otherwise assemble a firearm and without being registered or licensed under current law, purchases or otherwise obtains separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled. As introduced, the bill had made it a crime of the third degree if a person purchased separately or as a kit any combination of parts from which a firearm may be readily assembled with the purpose to manufacture an untraceable firearm.
 - (c) Remove the definition of “untraceable firearm” and add the definition of “firearm frame or firearm receiver.”
 - (d) Create a new third degree crime of manufacturing or facilitating the manufacture of a firearm using a three-dimensional printer and defines three-dimensional printer.
 - (e) Make it a crime of the third degree to manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert firearm or undetectable firearm.
4. Renumber the effective date as section 4 of the bill.
5. Replace the title and synopsis to reflect the amendments.

6. Make technical amendments to the bill to conform N.J.S.2C:39- 9 to P.L.2018, c.38.

2019 Electronic Update

ASSEMBLY JUDICIARY COMMITTEE STATEMENT WITH COMMITTEE AMENDMENTS

Assembly Bill No. 2759--L.2018, c. 38

DATED: FEBRUARY 28, 2018

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2759.

As amended and reported by the committee, Assembly Bill No. 2759 makes it a crime of the fourth degree to possess a new generation of handgun ammunition which poses a special threat to the law enforcement community because it has the capacity to breach or penetrate body armor.

Under current federal and State law, the possession of hollow nose or dum-dum bullets is prohibited, as is the possession of bullets which are Teflon-coated or which have specially hardened metal jackets or cores.

Police officers have encountered a new and highly destructive bullet. The SS190AP ammunition for the Five-seveN Tactical handgun is uniquely designed. It is a full metal jacketed bullet, but utilizes two metal inserts. The tip of the bullet has a steel penetrator which is followed by an aluminum core. The weight relationship between the two metals causes the bullet to tumble in soft body tissue, resulting in massive and, in many instances, deadly wounds.

But it is not just the substantial body trauma these bullets can cause that makes them a special threat to the law enforcement community. When fired from the Five-seveN handgun, the SS190AP bullet can penetrate 48 layers of Kevlar, the protective material used to make many types of body armor.

This amended bill prohibits individuals, other than law enforcement officers or other statutorily exempted parties such as members of the Armed Forces of the United States and licensed dealers who sell these types of ammunition to military or law enforcement agencies, from legally possessing ammunition designed and constructed like the SS190AP bullet that can penetrate body armor. Violators would be guilty of a crime of the fourth degree, which is punishable by a fine of not more than \$10,000, imprisonment for a term of not more than 18 months, or both.

COMMITTEE AMENDMENTS:

The committee amended the bill to make a technical correction to update a provision of the bill to reflect the changes made pursuant to P.L.2017, c.323.

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE STATEMENT

Senate, No. 841--L. 1989, c. 120

Senate Bill 841, as amended, prohibits as a crime of the fourth degree under N.J.S. 2C:39-4 the possession of an imitation firearm under circumstances that would lead an observer to reasonably believe that it is possessed for an unlawful purpose. “Imitation firearm” is defined by the bill as an object or device reasonably capable of being mistaken for a firearm.

Prior to being amended, the bill prohibited the possession of an imitation firearm under N.J.S. 2C:39-5 in circumstances not manifestly appropriate for such uses as it may have.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

Assembly, Nos. 2626, 2807 and Senate, No. 2108--L.1987, c. 228

The Senate Law, Public Safety and Defense Committee favorably reports the Assembly Committee Substitute for Assembly Bill Nos. 2626 and 2807 and Senate Bill No. 2108 with amendments.

As amended, this bill prohibits as a crime of the fourth degree the sale of hunting, fishing, combat, and survival knives with blade lengths of five inches or more or overall lengths of 10 inches or more to persons under the age of 18. The bill provides an affirmative defense to any seller prosecuted for violating this provision if the seller establishes all of the following circumstances by a preponderance of the evidence: (a) that the purchaser falsely represented his age by producing a driver's license bearing a photograph of the licensee or by producing a photographic identification issued pursuant to section 1 of P.L.1969, c. 313 (C. 33:1-81.2) or by producing a similar card purporting to be a valid identification card indicating that he was 18 years of age or older; and (b) that the appearance of the purchaser was such that an ordinary, prudent person would believe him to be 18 years of age or older; and (c) that the sale was made in good faith relying upon the indicators of age mentioned above.

In addition, the bill makes it a crime of the fourth degree to manufacture, transport, sell, dispose of, or possess without an explainable lawful purpose a ballistic knife. A law enforcement officer who confiscates a ballistic knife as evidence of the commission of a crime or because he believes the knife to be possessed illegally by the person from whom it is taken is exempt from the prohibition if the officer promptly notifies his superiors.

The committee amended the bill to delete the definition of martial arts device and the provision which would have made it a crime of the fourth degree to manufacture, transport, sell, dispose of, or possess without an explainable lawful purpose a martial arts device.

Senate, No. 2871--L.1985, c. 360

Senate Bill No. 2781, as amended by the Senate Law, Public Safety and Defense Committee, prohibits as a crime of the fourth degree the possession of a stun gun by any person, including a law enforcement officer. A crime of the fourth degree carries a penalty of imprisonment for up to 18 months, a fine of up to \$7,500.00, or both. Prior to being amended the bill classified possession of a stun gun as a crime of the third degree.

The committee amended the bill to include a provision authorizing the Attorney General, at his discretion, to exempt law enforcement officers from the prohibition against possessing stun guns.

The bill was also amended by the committee to include stun guns in the definition of “weapon” in paragraph r. of N.J.S. 2C:39-1.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE STATEMENT

Assembly, No. 3702 and Senate No. 3502--L.1983, c. 479

Assembly Committee Substitute for Assembly Bill No. 3702 and Senate Bill No. 3502 amends chapters 39 and 58 of Title 2C of the New Jersey Statutes to exempt “antique cannons” from those sections of the law ([N.J.S. 2C:39-5](#)) which would otherwise prohibit their possession. The bill would require that a person transporting, exhibiting or firing an antique cannon, comply with any regulations promulgated by the Superintendent of the State Police and to notify the State Police of an exhibition or discharge of an antique cannon not less than 30 days before the event.

Changes to the original bills were made at the request of the Attorney General's office.

[Notes of Decisions \(59\)](#)

N. J. S. A. 2C:39-1, NJ ST 2C:39-1

Current with laws through L.2019, c. 38

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

New Jersey Statutes Annotated

Title 2C. The New Jersey Code of Criminal Justice (Refs & Annos)

Subtitle 2. Definition of Specific Offenses

Part 5. Offenses Against Public Order, Health and Decency

Chapter 39. Firearms, Other Dangerous Weapons and Instruments of Crime (Refs & Annos)

N.J.S.A. 2C:39-3

2C:39-3. Prohibited weapons and devices

Effective: December 19, 2018

Currentness

Prohibited Weapons and Devices.

- a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.
- b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.
- c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.
- d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.
- e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band studded with metal filings or razor blades imbedded in wood, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.
- f. Dum-dum or armor piercing ammunition. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of [N.J.S.2C:39-6](#), who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in [Title 18, United States Code, section 921 \(a\) \(13\)](#) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, who knowingly has in his possession any armor piercing ammunition, as defined in subsection gg. of [N.J.S.2C:39-1](#), is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1)(a) Nothing in subsection a., b., c., d., e., f., j. or k. of this section shall apply to any member of the Armed Forces of the United States or the National Guard, or except as otherwise provided, to any law enforcement officer while actually on duty or traveling to or from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders.

(b) Nothing in subsection j. of this section shall apply to a law enforcement officer who possesses and carries while off-duty a large capacity ammunition magazine capable of holding not more than 17 rounds of ammunition that can be fed continuously and directly into a semi-automatic firearm.

(c) Notwithstanding subparagraph (b) of this paragraph, subsection j. of this section shall not apply to a law enforcement officer who possesses and carries while off-duty a large capacity ammunition magazine capable of holding more than 17 rounds of ammunition that can be fed continuously and directly into a semi-automatic firearm provided the large capacity ammunition magazine is used with a service firearm issued to the officer by the officer's employer for use in the officer's official duties.

(d) Nothing in subsection h. of this section shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General. Nothing in this section shall apply to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) (a) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

(b) Nothing in subsection f.(1) shall be construed to prevent a designated employee or designated licensed agent for a nuclear power plant under the license of the Nuclear Regulatory Commission from possessing hollow nose ammunition while in the actual performance of his official duties, if the federal licensee certifies that the designated employee or designated licensed agent is assigned to perform site protection, guard, armed response or armed escort duties and is appropriately trained and qualified, as prescribed by federal regulation, to perform those duties.

(3) Nothing in paragraph (2) of subsection f. or in subsection j. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition or large capacity ammunition magazine at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of [N.J.S.2C:39-6](#).

(5) Nothing in subsection c. of this section shall be construed to apply to any person who is specifically identified in a special deer management permit issued by the Division of Fish and Wildlife to utilize a firearm silencer as part of an alternative deer control method implemented in accordance with a special deer management permit issued pursuant to section 4 of [P.L.2000, c. 46 \(C.23:4-42.6\)](#), while the person is in the actual performance of the permitted alternative deer control method and while going to and from the place where the permitted alternative deer control method is being utilized. This exception shall not, however, otherwise apply to any person to authorize the purchase or possession of a firearm silencer.

h. Stun guns. Any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree.

i. Nothing in subsection e. of this section shall be construed to prevent any guard in the employ of a private security company, who is licensed to carry a firearm, from the possession of a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course approved by the Police Training Commission in the use of a nightstick.

j. Any person who knowingly has in his possession a large capacity ammunition magazine is guilty of a crime of the fourth degree unless the person has registered:

(1) an assault firearm pursuant to section 11 of [P.L.1990, c. 32 \(C.2C:58-12\)](#) and the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army; or

(2) a firearm with a fixed magazine capacity or detachable magazine capable of holding up to 15 rounds pursuant to section 7 of [P.L.2018, c. 39 \(C.2C:39-20\)](#).

k. Handcuffs. Any person who knowingly has in his possession handcuffs as defined in [P.L.1991, c. 437 \(C.2C:39-9.2\)](#), under circumstances not manifestly appropriate for such lawful uses as handcuffs may have, is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs possessed in violation of the law.

l. Bump stock or trigger crank. Any person who knowingly possesses a bump stock as defined in subsection ee. of [N.J.S.2C:39-1](#) or a trigger crank as defined in subsection ff. of [N.J.S.2C:39-1](#), regardless of whether the person is in possession of a firearm, is guilty of a crime of the third degree.

Notwithstanding the provisions of [N.J.S.2C:1-8](#) or any other provision of law, a conviction arising out of this subsection shall not merge with a conviction for possessing an assault firearm in violation of subsection f. of [N.J.S.2C:39-5](#) or a machine gun in violation of subsection a. of [N.J.S.2C:39-5](#) and a separate sentence shall be imposed upon each conviction. Notwithstanding the provisions of [N.J.S.2C:44-5](#) or any other provisions of law, the sentence imposed pursuant to this subsection shall be served consecutively to that imposed for unlawfully possessing an assault firearm in violation of subsection f. of [N.J.S.2C:39-5](#).

m. Covert or undetectable firearms. Any person who knowingly possesses any covert firearm as defined in subsection hh. of [N.J.S.2C:39-1](#), an undetectable firearm as defined in subsection ii. of [N.J.S.2C:39-1](#), or a firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun is guilty of a crime of the third degree.

Credits

L.1978, c. 95, § 2C:39-3, eff. Sept. 1, 1979. Amended by L.1979, c. 179, § 2, eff. Sept. 1, 1979; L.1983, c. 58, § 1, eff. Feb. 7, 1983; L.1983, c. 479, § 2, eff. Jan. 12, 1984; L.1985, c. 360, § 2, eff. Nov. 12, 1985; L.1987, c. 228, § 2, eff. July 30, 1987; L.1989, c. 11, § 1, eff. Feb. 1, 1989; L.1990, c. 32, § 10, eff. May 30, 1990; L.1991, c. 437, § 1, eff. Jan. 18, 1992; L.1999, c. 233, § 2, eff. Jan. 1, 2000; L.2000, c. 46, § 5, eff. June 30, 2000; L.2003, c. 168, § 1, eff. Sept. 3, 2003; L.2017, c. 323, § 2, eff. Jan. 16, 2018; L.2018, c. 38, § 2, eff. June 13, 2018; L.2018, c. 39, § 2, eff. June 13, 2018; L.2018, c. 138, § 2, eff. Nov. 8, 2018; L.2018, c. 161, § 1, eff. Dec. 19, 2018.

Editors' Notes

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE STATEMENT

Senate, No. 650--L.1989, c. 11

Senate 650 permits a guard who is licensed to carry a firearm and is employed by a private security company to lawfully carry a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course.

The bill requires that a training course, approved by the Police Training Commission, in the use of a nightstick must be completed before a private security guard licensed to carry a firearm is authorized to carry a nightstick while in the performance of his official duties.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

Notes of Decisions (43)

N. J. S. A. 2C:39-3, NJ ST 2C:39-3

Current with laws through L.2019, c. 38

EXHIBIT 7



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Negative Treatment Reconsidered by [New York State Rifle and Pistol Ass'n, Inc. v. Cuomo](#), 2nd Cir.(Conn.), Oct. 19, 2015



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

[McKinney's Consolidated Laws of New York Annotated](#)
[Penal Law \(Refs & Annos\)](#)
[Chapter 40. Of the Consolidated Laws \(Refs & Annos\)](#)
[Part Three. Specific Offenses](#)
[Title P. Offenses Against Public Safety](#)
[Article 265. Firearms and Other Dangerous Weapons \(Refs & Annos\)](#)

McKinney's Penal Law § 265.00

§ 265.00 Definitions

Effective: June 11, 2018

[Currenttness](#)

As used in this article and in article four hundred, the following terms shall mean and include:

1. "Machine-gun" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.
2. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms.
3. "Firearm" means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm.
4. "Switchblade knife" means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.
5. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.

5-a. "Pilum ballistic knife" means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.

5-b. "Metal knuckle knife" means a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of plastic knuckles or metal knuckles as well as a knife.

5-c. "Automatic knife" includes a stiletto, a switchblade knife, a gravity knife, a cane sword, a pilum ballistic knife, and a metal knuckle knife.

6. "Dispose of" means to dispose of, give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

7. "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

8. "Gunsmith" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm, large capacity ammunition feeding device or machine-gun.

9. "Dealer in firearms" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol or revolver.

10. "Licensing officer" means in the city of New York the police commissioner of that city; in the county of Nassau the commissioner of police of that county; in the county of Suffolk the sheriff of that county except in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown, the commissioner of police of that county; for the purposes of [section 400.01](#) of this chapter the superintendent of state police; and elsewhere in the state a judge or justice of a court of record having his office in the county of issuance.

11. "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

13. "Cane Sword" means a cane or swagger stick having concealed within it a blade that may be used as a sword or stiletto.

14. [See also subd. 14 below] “Chuka stick” means any device designed primarily as a weapon, consisting of two or more lengths of a rigid material joined together by a thong, rope or chain in such a manner as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict serious injury upon a person by striking or choking. These devices are also known as nunchakus and centrifugal force sticks.

14. [See also subd. 14 above] “Antique firearm” means:

Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

15. “Loaded firearm” means any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.

15-a. “Electronic dart gun” means any device designed primarily as a weapon, the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock to such person by means of a dart or projectile.

15-b. “Kung Fu star” means a disc-like object with sharpened points on the circumference thereof and is designed for use primarily as a weapon to be thrown.

15-c. “Electronic stun gun” means any device designed primarily as a weapon, the purpose of which is to stun, cause mental disorientation, knock out or paralyze a person by passing a high voltage electrical shock to such person.

16. “Certified not suitable to possess a self-defense spray device, a rifle or shotgun” means that the director or physician in charge of any hospital or institution for mental illness, public or private, has certified to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has been judicially adjudicated incompetent, or who has been confined to such institution for mental illness pursuant to judicial authority, is not suitable to possess a self-defense spray device, as defined in [section 265.20](#) of this article, or a rifle or shotgun.

17. “Serious offense” means (a) any of the following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of criminal sexual act or rape which was designated as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-seven-e of such former penal law; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law.

(b) [As amended by L.1999, c. 635, § 11. See, also, par. (b) below.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortifacient articles; permitting prostitution; promoting prostitution in the third degree; stalking in the fourth degree; stalking in the third degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

(b) [As amended by L.1999, c. 635, § 15. See, also, par. (b) above.] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortifacient articles; permitting prostitution; promoting prostitution in the third degree; stalking in the third degree; stalking in the fourth degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

(c) any of the following offenses, where the defendant and the person against whom the offense was committed were members of the same family or household as defined in [subdivision one of section 530.11 of the criminal procedure law](#) and as established pursuant to [section 370.15 of the criminal procedure law](#): assault in the third degree; menacing in the third degree; menacing in the second degree; criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the third degree; criminal tampering in the third degree; criminal contempt in the second degree; harassment in the first degree; aggravated harassment in the second degree; criminal trespass in the third degree; criminal trespass in the second degree; arson in the fifth degree; or attempt to commit any of the above-listed offenses.

18. "Armor piercing ammunition" means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium.

19. "Duly authorized instructor" means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) by a person duly qualified and designated by the department of environmental conservation under [paragraph d of subdivision six of section 11-0713 of the environmental conservation law](#) as its agent in the giving of instruction and the making of certifications of qualification in responsible hunting practices.

20. "Disguised gun" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be something other than a gun.

21. "Semiautomatic" means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.

22. “Assault weapon” means

(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 beneath the action of the weapon;

(iii) a thumbhole stock;

(iv) a second handgrip or a protruding grip 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;

(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 thereof 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.

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) [Suspended and not effective, pursuant to [L.2013, c. 57, pt. FF, § 4, eff. March 29, 2013, deemed eff. Jan. 15, 2013.](#)] contains more than seven rounds of ammunition, or (c) [Suspended and not effective, pursuant to [L.2013, c. 57, pt. FF, § 4, eff. March 29, 2013, deemed eff. Jan. 15, 2013.](#)] 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.

24. "Seller of ammunition" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling or keeping ammunition.

25. "Qualified retired New York or federal law enforcement officer" means an individual who is a retired police officer as police officer is defined in [subdivision thirty-four of section 1.20 of the criminal procedure law](#), a retired peace officer as peace officer is defined in [section 2.10 of the criminal procedure law](#) or a retired federal law enforcement officer as federal law enforcement officer is defined in [section 2.15 of the criminal procedure law](#), who: (a) separated from service in good standing from a public agency located in New York state in which such person served as either a police officer, peace officer or federal law enforcement officer; and (b) before such separation, was authorized by law to engage in or

supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest, pursuant to their official duties, under the criminal procedure law; and (c) (i) before such separation, served as either a police officer, peace officer or federal law enforcement officer for five years or more and at the time of separation, is such an officer; or (ii) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency at or before the time of separation; and (d)(i) has not been found by a qualified medical professional employed by such agency to be unqualified for reasons relating to mental health; or (ii) has not entered into an agreement with such agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health; and (e) is not otherwise prohibited by New York or federal law from possessing any firearm.

Credits

(L.1965, c. 1030. Amended L.1967, c. 791, § 46; L.1969, c. 123, § 1; L.1972, c. 588, § 1; L.1972, c. 605, § 1; L.1974, c. 179, § 1; L.1974, c. 462, § 1; L.1974, c. 986, §§ 1, 2; L.1974, c. 1041, § 1; L.1976, c. 217, § 1; L.1982, c. 492, § 1; L.1985, c. 61, § 1; L.1986, c. 328, § 2; L.1986, c. 646, § 1; L.1988, c. 264, § 1; L.1990, c. 264, § 1; L.1995, c. 219, § 2; L.1996, c. 354, § 2; L.1997, c. 446, § 2, eff. Aug. 25, 1997; L.1998, c. 378, § 1, eff. Nov. 1, 1998; L.1999, c. 210, § 1, eff. Nov. 1, 1999; L.1999, c. 635, §§ 11, 15, eff. Dec. 1, 1999; L.2000, c. 189, §§ 8 to 10, eff. Nov. 1, 2000; L.2003, c. 264, § 33, eff. Nov. 1, 2003; L.2007, c. 510, § 3, eff. Feb. 11, 2008; L.2008, c. 257, § 3, eff. Nov. 1, 2008; L.2010, c. 232, §§ 2, 3, eff. July 30, 2010; L.2013, c. 1, § 37, eff. Jan. 15, 2013; L.2013, c. 1, § 38; L.2013, c. 1, § 39, eff. March 16, 2013; L.2013, c. 98, § 1, eff. July 5, 2013; L.2018, c. 60, § 1, eff. June 11, 2018.)

Editors' Notes

VALIDITY

<For validity of this section, see [New York State Rifle and Pistol Ass'n, Inc. v. Cuomo](#), 990 F.Supp.2d 349, 351 (W.D.N.Y. Dec. 31, 2013) and [N.Y. State Rifle & Pistol Ass'n, Inc. v. Cuomo](#), 804 F.3d 242 (2d Cir. 2015), cert. denied sub nom. [Shew v. Malloy](#), 136 S. Ct. 2486, 195 L. Ed. 2d 822 (2016)>

SUPPLEMENTARY PRACTICE COMMENTARY

by William C. Donnino

Definitions

Switchblade knife

A “switchblade knife” means “any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.” Penal Law 265.00(4). An accusatory instrument charging attempted possession of a switchblade knife was not jurisdictionally deficient where the arresting officer stated that he knew the knife was a switchblade “because, when I applied hand pressure to a spring-loaded portion of the blade of the knife protruding from the handle of the knife, the blade swung open automatically.” [People v. Berrezueta](#), 31 N.Y.3d 1091, 79 N.Y.S.3d 622, 104 N.E.3d 726 (2018). While that description was not in the literal language of the definition, the Court found that it constituted “sufficient notice of the charged conduct to prepare a defense and avoid double jeopardy.”

Gravity knife

An accusatory instrument was not jurisdictionally defective where the arresting officer stated that the knife he recovered from the defendant was a gravity knife, “in that it opens with centrifugal force and locks automatically in place.” *People v. Sans*, 26 N.Y.3d 13, 15, 19 N.Y.S.3d 468, 41 N.E.3d 333 (2015). The Court rejected the defendant's argument that an accusatory instrument alleging possession of a gravity knife “must expressly” state that element of the definition of a “gravity knife” which requires that the knife lock by means of a device. In the Court's view that element was incorporated in the language that it locked “automatically” in place. *People v. Sans*, 26 N.Y.3d 13, 16, 19 N.Y.S.3d 468, 41 N.E.3d 333 (2015).

The Second Circuit Court of Appeals has held that the definition of a “gravity knife” is not unconstitutionally vague on its face. *Copeland v. Vance*, 893 F.3d 101 (2d Cir. 2018). The Court, however, thought that there are circumstances in which a claim that the statute was unconstitutional as applied “might succeed. For example, a gravity knife conviction might be constitutionally infirm if the knife could be flicked open to a locked position only with great difficulty or by a person with highly unusual abilities. A knife that responds inconsistently to the wrist-flick test might also provide grounds to challenge the law on an as-applied basis.” *Id.* at 9.

Serious Offense

In 2018 (c. 60), the definition of “serious offense” set forth in Penal Law § 265.00(17) was amended to add paragraph (c) to include misdemeanors which may relate to acts of “domestic violence.”

One effect of that amended definition was to expand liability for the crime of “criminal possession of a weapon in the fourth degree” [Penal Law § 265.01(4)] because a conviction of a “serious offense” is an element of that crime.

The legislative purpose, however, was broader than expanding the liability for a crime. The main purpose of the revised statutes was aimed at disqualifying a person convicted of a misdemeanor related to “domestic violence” from having a firearms license. By adding to the definition of “serious offense” a list of misdemeanors potentially related to a “domestic violence” event, the legislation expanded the list of offenses for which a person convicted of would be disqualified from obtaining a firearms license [Penal Law § 400.00(1)], and if that person had a license, the conviction operated to revoke that license [Penal Law § 400.00(11)].

As explained in the Legislative Memorandum in support of the law:

“New York law prohibits the possession of firearms for individuals convicted of felony or “serious“ offenses. However, this excludes [prior to the instant legislation] certain misdemeanor offenses involving domestic violence. To ensure that all domestic violence offenders are held to the same standard, the [legislation includes] additional domestic violence misdemeanors on the list of [serious] offenses.”

Not every one of the misdemeanors added to the definition of “serious offense” will arise out of “domestic violence” conduct. There is, however, no provision in the definition of “serious offense” or otherwise in the Penal Law that limits the application accordingly. The same legislation, however, repealed and reenacted CPL 370.15 and 380.97, and the reenacted sections, particularly CPL 370.15, purport to provide a basis for a defendant convicted of the “serious offense” misdemeanor to claim that the misdemeanor did not involve “domestic violence,” or more particularly, did not involve “members of the same family or household,” as defined in CPL 530.11(1). See CPL 370.15 (“Procedure for determining whether certain misdemeanor crimes

are serious offenses under the Penal Law”) and the Practice Commentary thereto. *But see* [CPL 370.25](#), added by the same legislation, and requiring a court, upon a defendant's conviction of a felony or “serious offense,” to order [in accord with [Penal Law § 265.20\(a\)\(1\)\(f\)](#) and [Penal Law § 400.05\(6\)](#)] the “immediate surrender” of all “firearms, rifles and shotguns owned or possessed by the defendant.”

PRACTICE COMMENTARIES

by William C. Donnino

History

Second Amendment

Definitions

Firearm and loaded firearm

Antique firearm

Assault weapon

Automatic knife

Billy

Chuka stick

Electronic dart gun

Electronic stun gun

Gravity knife

Kung Fu star

Large capacity ammunition feeding device

Penal Law § 265.00(22)(h)

[Penal Law § 265.02\(8\)](#)

[Penal Law § 265.10](#)

[Penal Law § 265.11](#)

[Penal Law § 265.36](#) and [§ 265.37](#)

Machine-gun

Metal knuckles

Metal knuckle knife

Pilum ballistic knife

Rifle or shotgun

History

In 1963, as a result of years of study and the recommendations of the Joint Legislative Committee on Firearms and Ammunition, the provisions of the former Penal Law dealing with weapons were revised. L.1963, c. 136; former Penal Law §§ 1896-1904. That revision placed in one section the definitions of most of the substantive crimes [see former Penal Law § 1897, “Possession of weapons and dangerous instruments and appliances”].

In 1967, the current Penal Law took effect and carried forward, almost verbatim, the weapon provisions of the former Penal Law, placing the major provisions primarily in Penal Law former § 265.05. In 1974, the then-existing [Penal Law § 265.05](#) was restructured by dividing the various crimes defined in that one section into five sections, currently [Penal Law § 265.01](#) through [Penal Law § 265.05](#), in a degree structure which was generally in accord with the structure of other Penal Law statutes. L.1974, c. 1041.

There were a substantial number of amendments thereafter, most of which added new crimes, and that history is set forth in the comments to the applicable amendment.

Second Amendment

The Second Amendment to the Federal Constitution provides: “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

In *District of Columbia v. Heller*, 554 U.S. 570, 635, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008), the Supreme Court held that the District of Columbia’s “ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.” Thereafter, the Supreme Court applied the Second Amendment to the states. *McDonald v. City of Chicago*, 561 U.S. 742, 786, 130 S.Ct. 3020, 3047, 177 L.Ed.2d 894 (2010).

In *Heller*’s view, “the inherent right of self-defense has been central to the Second Amendment right. The handgun ban amounts to a prohibition of an entire class of ‘arms’ that is overwhelmingly chosen by American society for that lawful purpose.” *Heller*, 554 U.S. at 628.

Thus, the protected weapons are those which were in “common use” at the time of the amendment for lawful purposes, such as self-defense and defense of one’s home. *Id.* at 624-27. That reference to weapons in “common use” at the time of the amendment was not intended to necessarily exclude from the amendment’s protection weapons presently in common use for lawful purposes, given the Court’s holding that the amendment “extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Id.* at 582. See *Caetano v. Massachusetts*, 577 U.S. ___, 136 S.Ct. 1027, 194 L.Ed.2d 99 (2016).

The amendment “does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short barreled shotguns” [*Id.* at 625], machineguns [*Id.* at 624] and a M-16 rifle. *Id.* at 627. Nor does the amendment support “a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Heller*, 554 U.S. at 626.

With respect to regulatory laws, the Court expressly declined to provide an “exhaustive” list of “lawful regulatory measures,” but the Court did explain that the Second Amendment does not interdict “prohibitions

on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.” *Id.* 626-27 and n.26; *McDonald v. City of Chicago*, 561 U.S. at 786, *supra* (emphasizing the *Heller* limitations of the Second Amendment with respect the ability to carry any weapon in any manner for whatever purpose and with respect to regulatory measures).

Then, in *Caetano v. Massachusetts*, 577 U.S. ___, *supra*, the Court, in a per curiam opinion, rejected the three reasons that the Massachusetts court had given for upholding a state ban on the possession of stun guns and remanded the case for further consideration. The Supreme Court began by reiterating that *Heller* held that “the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” Thus, the state court’s first reason, that stun guns “were not in common use at the time of the Second Amendment’s enactment” was inconsistent with that holding. Next, the state court had reasoned that stun guns meet the historical exception of prohibiting the carrying of dangerous and “unusual” weapons; but when the state equated “unusual” with the stun gun not in common use at the time of the amendment’s enactment, the Supreme Court found that it did no more than reiterate its first erroneous reason. As for its third reason, that stun guns are not readily adaptable to use in the military, the Supreme Court stated that “*Heller* rejected the proposition ‘that only those weapons useful in warfare are protected.’”

New York has a statute which parallels the Second Amendment. *Civil Rights Law* § 4 states: “A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.”

To date, that statute has not been interpreted to negate any of New York’s statutory restrictions on the possession of firearms. *See Moore v. Gallup*, 267 A.D. 64, 45 N.Y.S.2d 63 (3d Dept. 1943), *affirmed without opinion* 293 N.Y. 846, 59 N.E.2d 439 (1944), *but remittitur amended* 294 N.Y. 699, 60 N.E.2d 847 (1945) to state that the Court had held that the New York statutes relating to a license to carry a concealed pistol were not repugnant to the provisions of the Fourteenth Amendment.

Since *Heller*, New York has continued to uphold its statutory scheme which prohibits the possession of a firearm without an appropriate license. In *People v. Hughes*, 22 N.Y.3d 44, 978 N.Y.S.2d 97, 1 N.E.3d 298 (2013), the Court of Appeals held that a conviction of “criminal possession of a weapon in the second degree” and “criminal possession of a weapon in the third degree,” predicated on the defendant’s having been previously convicted of a crime, did not violate the Second Amendment. *See also Schulz v. State of N. Y. Exec.*, 134 A.D.3d 52, 53, 19 N.Y.S.3d 92 (3d Dept. 2015), *appeal dismissed upon the ground that no substantial constitutional question is directly involved* 26 N.Y.3d 1139, 27 N.Y.S.3d 502, 47 N.E.3d 782 (2016); *People v. Perkins*, 62 A.D.3d 1160, 1161, 880 N.Y.S.2d 209 (3d Dept. 2009) (“Unlike the statute at issue in *Heller*, Penal Law article 265 does not effect a complete ban on handguns and is, therefore, not a ‘severe restriction’ improperly infringing upon defendant’s Second Amendment rights. Moreover, in our view, New York’s licensing requirement remains an acceptable means of regulating the possession of firearms ... and will not contravene *Heller* so long as it is not enforced in an arbitrary and capricious manner”); *People v. Ferguson*, 21 Misc.3d 1120(A), 873 N.Y.S.2d 513 (Criminal Court, Queens County, 2008) (“... *Heller*, is distinguishable from the case at bar for several reasons. Firstly, at the time of his arrest, defendant was not in his home, but was in an airport. Secondly, the requirement that handguns be licensed in the State of New York is not tantamount to a total ban and, therefore, is not a ‘severe restriction’ as was the case in *Heller*. Lastly, the Court identified certain presumptively lawful regulatory measures which would survive a constitutional challenge including the carrying of firearms in ‘sensitive places.’ Licensing is an acceptable regulatory measure and an airport falls within the scope of a ‘sensitive place.’”).

In an extensive opinion, including a detailed recitation of the history of New York’s regulation of firearms, the Second Circuit Court of Appeals held that the Second Amendment was not violated by New York’s statutory

requirement that a person who wants to “have and carry concealed [a hand gun], without regard to employment or place of possession” must show that “proper cause” exists for the issuance of a license to do so [Penal Law § 400.00(2)(f)]. *Kachalsky v. County of Westchester*, 701 F.3d 81 (2d Cir. 2012).

Definitions

The definitions in Penal Law § 265.00 describe the various types of weapons which are regulated by this article, as well as certain terms utilized in the article regulating the licensing of firearms [Penal Law article 400]. Some of those definitions are discussed here; others are discussed in the sections dealing with the crimes in which they are used. The principal weapon regulated by this article is a firearm and thus it is discussed first, with the remaining terms thereafter in alphabetical order.

Firearm and Loaded Firearm

By definition, a “firearm” is limited to: a pistol, revolver, the so-called “sawed-off” shotgun or rifle, and an “assault weapon” [Penal Law § 265.00(3)]. The vast array of other types of rifles and shotguns are not included within that definition and thus are not a subject of the statutes which utilize the term “firearm” to define a crime. A “rifle” and a “shotgun” are separately-defined terms [Penal Law § 265.00(11) & (12)] and there are statutes which define crimes which pertain separately and solely to them.

The statutory definition of “firearm” does not require that the firearm be loaded. A separate term and definition are provided for a “loaded firearm” [Penal Law § 265.00(15)]. In addition to the common understanding that a firearm is loaded when it contains ammunition, by the statutory definition, a firearm is loaded when there is simultaneous possession of the firearm and ammunition, irrespective of whether the ammunition is in the firearm.

The statutory definition of “firearm” also does not specify that the firearm need be operable. By contrast, the definition of “loaded firearm” does require ammunition “which may be used to discharge” the firearm [Penal Law § 265.00(15)], and the definition of a “machine gun,” does require that the weapon, “loaded or unloaded,” be one “from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger....” Compare Penal Law § 10.00(12), defining a “deadly weapon” to mean a “loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged....”; *People v. Shaffer*, 66 N.Y.2d 663, 495 N.Y.S.2d 965, 486 N.E.2d 823 (1985) (the “People failed to establish that the gun ... was a ‘deadly weapon’ ... that is, both operable and loaded with live ammunition”).

However, inherent to the common understanding of what constitutes a firearm and key to its danger is its operability. Hence, to establish that the weapon in issue is a “firearm” the courts have required proof of its operability, that is, that it is capable of discharging ammunition. See *People v. Longshore*, 86 N.Y.2d 851, 852, 633 N.Y.S.2d 475, 657 N.E.2d 496 (1995) (“Although the statute is silent on the point, it is now accepted that to establish criminal possession of a handgun the People must prove that the weapon is operable,” and *Longshore* applied that same requirement of operability to a rifle or shotgun).

A firearm that is found in a disassembled condition but is operable when assembled is an operable firearm without any further proof that the defendant was personally capable of rendering the disassembled firearm operable. *People v. Lugo*, 161 A.D.2d 122, 554 N.Y.S.2d 849 (1st Dept. 1990). See also *People v. Cavines*, 70 N.Y.2d 882, 883, 524 N.Y.S.2d 178, 518 N.E.2d 1170 (1987) (“... the fact that the gun malfunctioned [during the commission of a crime], standing alone, does not defeat the overwhelming inference that immediately prior

to the pulling of the trigger, the gun was capable of discharging the ammunition, particularly in view of the uncontradicted evidence that when subsequently test-fired, the gun and the bullets were found to be operable”).

In addition to the firearm being operable, the ammunition of a loaded firearm must be “live,” that is, capable of being discharged by the firearm. Penal Law § 265.00(15). See *People v. Johnson*, 56 A.D.3d 1191, 867 N.Y.S.2d 319 (4th Dept. 2008); *People v. Daniels*, 77 A.D.2d 745, 430 N.Y.S.2d 881 (3d Dept. 1980); *People v. Thomas*, 70 A.D.2d 570, 417 N.Y.S.2d 66 (1st Dept. 1979).

A “firearm” that is not operable may be the subject of a charge of attempted criminal possession of a weapon. *People v. Saunders*, 85 N.Y.2d 339, 624 N.Y.S.2d 568, 648 N.E.2d 1331 (1995).

Neither “pistol” nor “revolver” is defined by statute. They both, however, refer to a handgun. See Random House Webster's Unabridged Dictionary (1999) definition of “handgun” (“any firearm that can be held and fired with one hand; a revolver or a pistol”); definition of “pistol” (“a short firearm intended to be held and fired with one hand”) and definition of “revolver” (“a handgun having a revolving chambered cylinder for holding a number of cartridges, which may be discharged in succession without reloading”).

“Sawed-off” shotgun or rifle was first defined solely as a firearm of a “size which may be concealed upon the person.” That inherently imprecise definition proved inadequate. See *People v. Cortez*, 110 Misc.2d 652, 442 N.Y.S.2d 873 (Supreme Court, N.Y. County, 1981). The definition was amended in 1982 [c. 492] and that definition appeared to require that the shotgun or rifle have a barrel “and” an overall length of the specified measurement in order to be classified as a sawed-off shotgun or rifle, and that a weapon made from a shotgun or rifle would be so classified only if its overall length was less than that specified in the definition. *People v. Santiago*, 133 Misc.2d 161, 506 N.Y.S.2d 136 (Supreme Court, N.Y. County, 1986) was of the view that the Legislature intended that a shotgun or rifle, or a weapon made from either of them, should be classified as a “sawed-off” weapon depending upon the length of the barrel “or” overall length, and recommended clarifying legislation. See also *People v. Crivillaro*, 142 Misc.2d 527, 538 N.Y.S.2d 152 (Supreme Court, Bronx County, 1989). In 1988, the Legislature amended the definition to specify that a shotgun or rifle may be deemed a sawed-off weapon if the barrel length alone is less than the specified number of inches (18 for a shotgun, 16 for a rifle), and that any weapon made from a shotgun or rifle may be deemed a sawed-off weapon if the overall length is less than 26 inches [Penal Law § 265.00(3)(b), (c), and (d)]. L.1988, c. 264.

An “assault weapon,” which is separately defined in Penal Law § 265.00(22), was added to the definition of “firearm” in 2000 [c. 189]. By amending the definition of “firearm” to include an “assault weapon,” the “assault weapon” became the subject of such crimes as: “criminal possession of a weapon” in the fourth degree [Penal Law § 265.01(1), (3)], third degree [Penal Law § 265.02(1), (3), (5)], and second degree [Penal Law § 265.03]; “criminal sale of a firearm” in the second degree [Penal Law § 265.12] and first degree [Penal Law § 265.13]; “criminal sale of a firearm” with the aid of a minor [Penal Law § 265.14] and to a minor [Penal Law § 265.16]; and a couple of crimes defined in Penal Law § 265.10(3) and (6).

In addition to including an “assault weapon” in the definitions of crimes that use the term “firearm,” the legislation added some crimes which specifically name an “assault weapon.” The first of the amended crimes was “criminal possession of a weapon in the third degree,” a felony. It was amended to include a subdivision to prohibit the possession of an assault weapon [Penal Law § 265.02(7)], irrespective of whether it is loaded and irrespective of where the possession takes place. The second of the amended crimes was “manufacture, transport, disposition and defacement of weapons ...” [Penal Law § 265.10]. It was amended to forbid anyone to manufacture, transport, or dispose of any “assault weapon” [Penal Law § 265.10(1), (2) and (3) (first sentence)].

An “antique firearm,” which is separately defined in Penal Law § 265.00(14), is expressly excluded from the definition of “firearm.”

Antique Firearm

As noted in the discussion of the definition of “firearm,” an “antique firearm” is expressly excluded from the definition of “firearm” [Penal Law § 265.00(3)]. *See also* Penal Law § 265.00(22)(g)(i) exempting “antique firearm,” as defined by Federal law, from the definition of “assault rifle.” As a result of the exclusion of “antique firearm,” as defined by the instant statute, from the definition of “firearm,” any proscription related to an “antique firearm” requires a specific reference to that term. *See, e.g.* Penal Law § 265.01(4), making it a crime to possess an “antique firearm.”

The term “antique firearm” is separately defined by New York law to mean any “unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade” [Penal Law § 265.00(14)]. It is critical to note that the definition requires that the defined weapon be “unloaded” in order for it to qualify as an “antique firearm”; a weapon which met the structural definition of an “antique firearm” but was loaded would constitute a “firearm” and be subject to the laws applicable thereto. *See People v. Wedgewood*, 106 A.D.2d 674, 483 N.Y.S.2d 440 (2d Dept. 1984); *People v. Mott*, 112 Misc.2d 833; 447 N.Y.S.2d 632 (Supreme Court, N.Y. County, 1982).

In adding the definition of “antique firearm” in 1974 [c. 986] and excluding it from the definition of “firearm,” the Legislature intended that “hobbyists would be permitted to collect ... trade, buy and sell these antique firearms without being subject to the requirements of licensing.” *People v. Mott*, 112 Misc.2d at 835, *supra*, quoting the Legislative Memorandum. In 2011, however, the Legislature changed its mind by amending the crime of “criminal possession of a firearm in the fourth degree” [Penal Law § 265.01(4)] to include as a crime, the possession of an “antique firearm.” [L.2011 c. 357]. The Legislative Memorandum to the companion bill (Assembly 8456) stated that “[m]odern muzzle loading rifles are essentially a modern single shot rifle. They look and operate very much like a sporting rifle and allow accurate shots at distances up to 200 yards ... [and] can be reloaded in seconds....” There is authority to issue a license to have, possess, collect and carry “antique pistols,” as that term is separately defined in Penal Law § 400.00(2)(g).

Assault Weapon

An “assault weapon” was added to the definition of “firearm” in 2000 [Penal Law § 265.00(3)] and at the same time, was separately defined [Penal Law § 265.00(22)]. L.2000, c. 189. In 2013, the NY SAFE Act amended and significantly revised the definition.

A principal difference between the former and present definition is that the former definition required the requisite firearm to have two military style features or characteristics, while the current definition requires only one. Thus, as the Governor explained: “Under the stricter definitions, semi-automatic pistols [see subdivision 22(c) and (f)] and rifles [see subdivision 22(a) and (f)] with detachable magazines and one military style feature will be considered assault weapons. Semi-automatic shotguns [see subdivision 22(b) and (f)] with one military style feature will also be considered assault weapons.” Governor's Press Release, “Governor Cuomo Signs NY Safe Act in Rochester,” January 16, 2013. Also included as an assault weapon is a “revolving cylinder shotgun” [subdivision 22(d)].

The definition contains eight paragraphs (a) to (h), several of which define different types of weapon which can be classified as an assault weapon; they are:

- (a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the listed characteristics;
- (b) a semiautomatic shotgun that has at least one of the listed characteristics;
- (c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the listed characteristics;
- (d) a revolving cylinder shotgun;
- (e) semiautomatic rifle, shotgun or pistol defined in the former Penal Law § 265.00(22)(e)(v) of the L.2000, c. 189 which had been lawfully possessed, pursuant to laws of 2000, c. 189, prior to September fourteenth, nineteen hundred ninety-four.

The term “semiautomatic” is separately defined in subdivision 21 of the instant section which in lay terms includes any repeating rifle, shotgun or pistol which, although requiring a separate pull of the trigger to fire each round, has the capacity of being fired to extract the spent shell and automatically load a cartridge.

There is a grandfathering provision, paragraphs (f) and (g), exempting certain weapons from the definition.

Assault weapons defined in subdivision (22)(e) or (f), possessed before January 16, 2013, had to be registered by April 15, 2014 [Penal Law § 400.00(16-a)]; except a weapon defined in subdivision (22)(g)(vi) “transferred into the state may be registered at any time, provided such weapons are registered within thirty days of their transfer into the state.” Once having registered, the registrant must “recertify” every five years thereafter or suffer revocation of the registration [Penal Law § 400.00(16-a)].

Owners of a grandfathered assault weapon or large capacity ammunition feeding device may only transfer same to a purchaser authorized to possess same or to an individual or entity outside of the state [subdivision 22(h)]. Governor's Press Release, supra. An individual who transfers a grandfathered weapon or large capacity ammunition device to an individual inside New York State or without complying with the other provisions of the statute [subdivision 22(h)], shall, except for a large capacity ammunition device transferred within one year of the effective date of the NY SAFE Act, be guilty of a class A misdemeanor [subdivision 22(h)].

Automatic knife

In 2007, legislation was passed to support and promote the establishment of a “cutlery and knife museum” in the Hudson Valley. L.2007, c. 510. As a result, the museum and its employees would need an exemption from the crime of possession of certain knives. Thus, the term “automatic knife” was created and defined to include a “stiletto, a switchblade knife, a gravity knife, a cane sword, a pilum ballistic knife, and a metal knuckle knife” [Penal Law § 265.00(5-c)], and an exemption from criminal liability was provided for the possession or ownership of automatic knives by a cutlery and knife museum, established pursuant to Education Law § 216-c, or by any employee of the museum when acting in furtherance of the business of the museum [Penal Law § 265.20(d)].

Billy

There is no statutory definition of “billy.” However, in *People v. Ocasio*, 28 N.Y.3d 178, 43 N.Y.S.3d 228, 65 N.E.3d 1263 (2016), the Court described a “billy” as “a cylindrical or rounded, rigid, club or baton with a handle grip which, from its appearance and inherent characteristics, is designed to be used as a striking weapon and not for other lawful purposes.” The Court further explained that it matters not whether the “billy” is comprised of wood, metal, or other synthetic material, or that the billy is collapsible or extendible.

Chuka stick

The “chuka stick” definition [Penal Law § 265.00(14)] was added by L.1974, c. 179. In urging the Governor to approve the legislation, the sponsor of the bill wrote: “The chuka stick is an instrument that may be purchased or easily assembled from two pieces of wood and a piece of thong, cord or chain. With a minimum amount of practice, this instrument may be effectively used as a garrote, bludgeon, thrusting or striking device. The chuka stick is designed primarily as a weapon and has no purpose other than to maim or, in some instances, kill.” Letter of Assemblyman Richard C. Ross to the Counsel to the Governor, Governor's Bill Jacket for the L.1974, c. 179.

Electronic dart gun

The “electronic dart gun” definition [Penal Law § 265.00(15-a)] was added in 1976. L.1976, c. 217. In urging the Governor to approve the legislation, the sponsor of the bill wrote: “There are a number of these devices being manufactured, the most popular of which is called a ‘Taser Public Defender.’ It is designed to look like a flashlight which can shoot two barbed darts a distance of 15 to 18 feet and deliver a 50,000 volt jolt of electricity effective through an inch of clothing. While the effect of the charge is to stun, knock out or paralyze a person and is temporary, it causes great pain and may well be lethal to a person in poor health.” Letter of Senator John D. Caemmerer to the Counsel to the Governor, Governor's Bill Jacket for the L.1976, c. 217.

Electronic stun gun

In 1990, the Legislature added the definition of an “electronic stun gun” [Penal Law § 265.00(15-c)]. L.1990, c. 264. That definition is like the definition of an “electronic dart gun.” Penal Law § 265.00(15-a). A principal difference is that the “electronic dart gun” requires that the electrical shock be passed by means of a dart or projectile. The Governor, who recommended the legislation, indicated that the “availability and use” of a weapon “which passes a high voltage electrical shock to a person by means of direct contact or without resort to a projectile” poses the same threat as an electronic dart gun. 1990 Governor's Approval Memorandum 31. Accordingly, for both weapons, possession per se is a crime. [Penal Law §§ 265.01\(1\); 265.02\(1\)](#).

There is a difference of judicial opinion on whether, in a prosecution for possession of an “electronic stun gun,” the People are required to prove that the defendant knew it was an “electronic stun gun.” Compare *People v. Small*, 157 Misc.2d 673, 598 N.Y.S.2d 431 (Supreme Court, New York County, 1993)(knowledge required) with *People v. Voltaire*, 18 Misc.3d 408, 413 n.1, 852 N.Y.S.2d 649 (Criminal Court, Kings County, 2007) (disagreeing with *Small* in a case in which the court decided that the defendant need not know that the knife possessed was a gravity knife) and *People v. Parrilla*, 27 N.Y.3d 400, 33 N.Y.S.3d 842, 53 N.E.3d 719 (2016) (in a prosecution for possession of a “gravity knife,” the People must prove that the defendant possessed a “knife,” but not that he or she knew that it met the definition of a “gravity knife”).

Gravity knife

The definition of “gravity knife” [Penal Law § 265.00(5)] requires that the knife's blade lock in place automatically; thus, a “butterfly knife,” which requires manual locking is not a gravity knife. *People v. Zuniga*, 303 A.D.2d 773, 759 N.Y.S.2d 86 (2d Dept. 2003). A local accusatory instrument which charges a defendant with possession of a gravity knife is jurisdictionally defective when it includes only a “conclusory statement that an object recovered from a defendant is a gravity knife,” without any explanation of how the object meets the statutory definition. *People v. Dreyden*, 15 N.Y.3d 100, 104, 905 N.Y.S.2d 542, 931 N.E.2d 526, 528 (2010).

In a prosecution for possession of a “gravity knife,” the People must prove that the defendant possessed a “knife,” but not that he or she knew that it met the definition of a “gravity knife.” *People v. Parrilla*, 27 N.Y.3d 400, 33 N.Y.S.3d 842, 53 N.E.3d 719 (2016). The Appellate Divisions have held that the People are required to prove that the “gravity knife” is operable [*People v. Smith*, 309 A.D.2d 608, 765 N.Y.S.2d 777 (1st Dept. 2003); *People v. Perez*, 123 A.D.2d 721, 506 N.Y.S.2d 961 (2d Dept. 1986)].

Kung Fu star

In 1982, the possession of a “Kung Fu star” [Penal Law § 265.00(15-b)] with intent to use it unlawfully against another was made a crime. L.1982, c. 840. In 1985, the manufacturing and transporting of a Kung Fu star was made a crime [Penal Law § 265.10]. L.1985, c. 61. In 1988, in recognition that Kung Fu stars may not be manufactured and, in the words of the Legislative Memorandum, that they “serve no legitimate purpose other than as a weapon,” the statute was again amended to make the per se possession of a Kung Fu star a crime [Penal Law § 265.01(2)]. L.1988, c. 220.

Large capacity ammunition feeding device

The concept of a “large capacity ammunition feeding device” [Penal Law § 265.00(23)] (hereinafter “large feeding device”) was introduced in 2000 [c. 189] and significantly amended in 2013 by the NY SAFE Act. [L.2013, c. 1, as amended by L.2013, c. 57]. Prior to the amendment, the definition excluded a large feeding device manufactured after September 30, 1994. That limitation was repealed; thus, those large feeding devices are included in the revised definition of a “large feeding device.” According to the Legislative Memorandum, the reason for doing so was “because it was impossible to tell the difference between magazines manufactured before or after [September 30, 1994].”

Under the revised definition, a large feeding device is one that “(a) has a capacity of, or that can be readily restored or converted to accept, more than ten 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 large feeding device that is a curio or relic.”

The two alternate definitions initially enacted as subdivisions (b) and (c) were in a convoluted way repealed. The import of those alternate subdivisions was to have the definition of a device ultimately limited to one that had a capacity of seven rounds. But, after enactment, it was noted that the smallest manufactured device normally had a capacity of ten rounds. Kaplan and Hakim, “New York Governor Favors Easing Newly Passed Gun Law,” New York Times, March 20, 2013 (<http://www.nytimes.com/2013/03/21/nyregion/cuomo-seeks-to-ease-a-newly-passed-gun-restriction.html>). Thus, before subdivisions (b) and (c) took effect, the NY SAFE Act was itself amended to declare that “the effective date of the amendments adding paragraphs (b) and (c) to such subdivision shall be suspended and not effective.” L.2013, c. 57 § 4. There is no provision lifting the “suspension” and making the amendments effective on a future date. As a result, that unique Penal Law

language of “suspended and not effective” would appear to have the practical effect of repealing each of those subdivisions and was probably utilized for whatever perceived advantage there was in being able to say the provisions were suspended, rather than repealed. The repeal of subdivision (c) did not, however, appear to affect the “provided, however” language recited above which existed in the law prior to the addition of subdivision (c) and had chronologically followed the repealed language of subdivision (c).

The crimes for which the definition of a large feeding device is utilized include Penal Law § 265.00(22)(h), § 265.10, § 265.11, § 265.02(8), § 265.36, and § 265.37. The import of those statutes is as follows:

Penal Law § 265.00(22)(h)

A large feeding device that was legally possessed prior to the enactment date of the NY SAFE Act, January 15, 2013, may be transferred to a person authorized to possess same or to an individual or entity outside of New York, provided that such a transfer must be reported, within 72 hours, to the entity with whom the weapon is registered. A person who transfers a device to an individual inside New York state or without otherwise complying with the law's transfer requirements is guilty of a class A misdemeanor, unless the device, the possession of which is made illegal by the NY SAFE Act, was transferred before January 15, 2014 [Penal Law § 265.00(22)(h)].

Penal Law § 265.02(8)

Prior to, and after, the NY SAFE Act, a provision of the statute defining “criminal possession of a weapon in the third degree,” makes it a class D felony when a “person possesses a large capacity ammunition feeding device” [Penal Law § 265.02(8)]. The NY SAFE ACT, however, amended that subdivision to specify that “[f]or purposes of this subdivision,” a large feeding device shall “not” include either of the following two feeding devices:

[i] a feeding device lawfully possessed by such person before January 15, 2013 (the effective date of chapter one of the laws of 2013 “which amended this subdivision”), “that has a capacity of, or that can be readily restored or converted to accept more than seven but less than eleven rounds of ammunition.” Parenthetically, this exclusion from liability for this felony became covered by the generic definition of a large feeding device when that definition was amended to specify that a large feeding device is one that “has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.” [L.2013, c. 57 § 4; Penal Law § 265.00(23)].

[ii] a feeding device “that was manufactured before September [13, 1994], that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.” The exclusion from liability for this felony is in recognition that prior to the NY SAFE Act, it was lawful to possess a feeding device manufactured before September 13, 1994. Notably, however, this exclusion from liability for this felony does not also require that the possessor lawfully possessed the feeding device prior to the effective date of the NY SAFE Act.

Penal Law § 265.10

As part of the 2000 laws [c. 189], Penal Law § 265.10 (“manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances”) was amended (1) to forbid the to manufacture, transport, or disposal of a “large capacity ammunition feeding device” [Penal Law § 265.10(1), (2) and (3) (first sentence)]; (2) to add a prohibition for the buying, receiving or disposing of a “large capacity ammunition feeding device” which has been defaced for a criminal purpose, which parallels the existing prohibition as it relates to a firearm [Penal Law § 265.10(3) (second sentence)]; and (3) to add a prohibition for “wilfully” defacing a “large capacity

ammunition feeding device,” which parallels the existing prohibition for wilfully defacing a firearm [Penal Law § 265.10(6)].

Penal Law § 265.11

Also, as part of the 2000 laws [c. 189], Penal Law § 265.11 (“criminal sale of a firearm in the third degree”) was amended to prohibit a person who is “not authorized” to possess a “firearm” from “unlawfully” selling or otherwise disposing of any firearm or “large capacity ammunition feeding device.” By contrast, one of the amendments to the crime of “manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances” made it a crime to “dispose of” [defined in Penal Law § 265.00(6)] a “large capacity ammunition feeding device” [Penal Law § 265.10(3) (sentence one)], without also requiring that the actor not be authorized to possess a firearm. Thus, unless exempted by Penal Law § 265.20, a person who “disposes of” such device (and does so, for example, by a sale of the device) commits a crime, irrespective of whether that person is authorized or not authorized to possess a “firearm.”

Penal Law § 265.36 and § 265.37

The NY SAFE Act added two non-felony offenses, apparently intending to include liability for a feeding device subject to the exceptions to the felony, though arguably not completely fulfilling that intent.

The first added offense was “unlawful possession of a large capacity ammunition feeding device” [Penal Law § 265.36], a class A misdemeanor. The statute makes it “unlawful for a person to knowingly possess a large capacity ammunition feeding device manufactured before September [13, 1994] and if such person lawfully possessed such large capacity feeding device before [January 15, 2013], that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.” Penal Law § 265.36.

A safeguard for those who once lawfully possessed such feeding device is a provision excluding from liability for this crime a person “who has a reasonable belief that such device ... may lawfully be possessed,” and who, within 30 days of being notified by law enforcement or a licensing official that possession is unlawful, “surrenders or lawfully disposes of” the feeding device. Once so notified, there exists a reasonable, rebuttable presumption that the possessor knows that the feeding device cannot be lawfully possessed.

The second added offense was “unlawful possession of certain ammunition feeding devices” [Penal Law § 265.37]. This statute makes it “unlawful for a person to knowingly possess an ammunition feeding device where such device contains more than seven rounds of ammunition.” L.2013, c. 57. *But see New York State Rifle & Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242, 248 (2d Cir. 2015) (“New York's seven-round load limit does not survive intermediate scrutiny in the absence of requisite record evidence and a substantial relationship between the statutory provision and important state safety interests”; accordingly, that provision is unconstitutional). However, there is an exemption from liability for Penal Law sections 265.01, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15 and 270.05 for the “possession and use” at certain specified “indoor or outdoor” firing ranges of a “magazine, belt, feed strip or similar device” that contains more than seven rounds of ammunition, albeit in a feeding device that does not have the capacity of more than ten rounds of ammunition [Penal Law § 265.20(7-f)].

Instead of placing the sentencing provisions applicable to this offense in the Penal Law articles dealing with sentences, the NY SAFE Act, unfortunately, as too many other statutes have done, further complicated the sentencing laws by setting forth the governing sentences for this offense in the statute defining the crime. If the large feeding device is “possessed within the home of the possessor,” a first offense is a violation, “subject

to” a fine of \$250; “each subsequent offense” is a class B misdemeanor, “subject to” a fine of \$250 and a term of imprisonment “up to three months.” If the large feeding device is not possessed within the home of the possessor, a first offense is a class B misdemeanor, “subject to” a fine of \$250 and a term of imprisonment “up to six months”; “each subsequent offense” is a class A misdemeanor. For the class A misdemeanor, no sentence is specified, and thus the normal sentence options will apply. For the specified sentences, it appears that the amount of the fine is the stated amount, there being no language indicating that the fine is “up to” the stated amount; on the other hand, the jail sentences utilize the “up to” language, making them discretionary within that range, which may therefore be from one day up to the stated period. What is mysterious about this type of specified sentences, which are placed outside the sentencing statutes, is whether they exclude any other option in the sentencing statutes which would normally be included in the stated classification.

Machine-gun

A “machine-gun” is not included in the definition of a “firearm.” Unlike the definition of a firearm, rifle or shotgun, the requirement of operability of a machine-gun appears subsumed in its definition, which requires that it be a weapon, “loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger...” [Penal Law § 265.00(1)]. See *People v. Woods*, 202 Misc. 562, 564, 114 N.Y.S.2d 611, 613 (N.Y. Magis. Ct. 1952) (purported machine gun was missing two parts and was thus not capable of firing more than one shot at a time and was therefore not a “machine gun”).

To an extent, the definition is expanded in the definition of the crime of “criminal possession of a weapon in the third degree” which prohibits the possession of a machine-gun or any other weapon “simulating a machine-gun and which is adaptable for such use.” Penal Law § 265.02(2). See *People v. Excell*, 254 A.D.2d 369, 680 N.Y.S.2d 259 (2d Dept. 1998) (the court rejected the claim that because a “Uzi cannot be easily converted into a machine gun,” it was thus not adaptable for such use because there was no such statutory qualification).

Metal knuckles

There is no statutory definition of “metal knuckles.” However, in *People v. Aragon*, 28 N.Y.3d 125, 42 N.Y.S.3d 646, 65 N.E.3d 675 (2016), the Court described “metal knuckles” as a “metal object with multiple holes, through which an individual places his or her fingers so that a metal bar rests atop the individual's knuckles. That object is used as a weapon to cause increased pain when the person wearing it hits someone with a fist.”

Metal knuckle knife

In 1995, the Legislature added to the list of defined weapons the “metal knuckle knife” [Penal Law § 265.00(5-b)], and then added that weapon to the list of items which constitute a deadly weapon [Penal Law § 10.00(12)], to the list of items the possession or manufacture of which is per se a crime [Penal Law §§ 265.01(1), 265.10(1)], and to the list of items whose presence in an automobile or in a stolen vehicle may give rise to a presumption of possession of that weapon by everyone in the automobile or stolen vehicle [Penal Law § 265.15]. L.1995, c. 219. A “metal knuckle knife” can function as both a set of metal knuckles (possession of which is also a per se crime) and a knife. In the words of the Legislative Memorandum, the “possession and manufacture of weapons such as the metal knuckle knife serve only one purpose, ... to maim or take human life. Police searches of shops in the City of New York have discovered this particular weapon. ... In order to protect society, these weapons must be included within the definition of ‘deadly weapons’ found in the Penal Law.”

In 2008, the definition of “deadly weapon” in [Penal Law § 10.00\(12\)](#) and the instant definition of “metal knuckle knife” were each amended to include “plastic knuckles” because the Legislature determined that “plastic knuckles have just as much impact as the brass knuckles and are just as deadly.” Legislative Memorandum. L.2008, c. 257. Also, a number of statutes which prohibit the possession, manufacture and transportation of various deadly weapons were amended to include a prohibition on the possession of “plastic knuckles” [[Penal Law §§ 265.01\(1\); 265.10\(1\) and \(2\)](#)].

Pilum ballistic knife

The “pilum ballistic knife” definition [[Penal Law § 265.00\(5-a\)](#)] was added in 1986. L.1986, c. 328. One advertisement for the knife described it as approximately nine-and-one-half inches long, with a four-and-a-half inch blade. When a button inside the knife handle is pushed, a powerful spring inside the handle can eject the blade, propelling it to a distance of up to 30 feet with considerable force.


Rifle or shotgun

A sawed-off rifle or shotgun, that is, one with a barrel or overall length less than that prescribed in the statute defining a “firearm” [[Penal Law § 265.00\(3\)](#)], and a rifle or shotgun which qualifies as an “assault weapon” are, for the purposes of this article, a “firearm” and therefore subject to the prohibitions related thereto.

Otherwise, a rifle and a shotgun, as those terms are defined [[Penal Law § 265.00\(11\) and \(12\)](#)], are not included in the definition of “firearm,” and any prohibition related to either requires the specific use of the term “rifle” or “shotgun.” *See, e.g.* [Penal Law § 265.01\(4\)](#). In addition to meeting the terms of the definition, a rifle or shotgun must also be operable, that is, capable of discharging ammunition. *People v. Longshore*, 86 N.Y.2d 851, 633 N.Y.S.2d 475, 657 N.E.2d 496 (1995).

[Notes of Decisions \(142\)](#)

McKinney's Penal Law § 265.00, NY PENAL § 265.00
Current through L.2019, chapters 1 to 19.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
Penal Law (Refs & Annos)
Chapter 40. Of the Consolidated Laws (Refs & Annos)
Part Three. Specific Offenses
Title P. Offenses Against Public Safety
Article 265. Firearms and Other Dangerous Weapons (Refs & Annos)

McKinney's Penal Law § 265.02

§ 265.02 Criminal possession of a weapon in the third degree

Effective: March 16, 2013
[Currentness](#)

A person is guilty of criminal possession of a weapon in the third degree when:

- (1) Such person commits the crime of criminal possession of a weapon in the fourth degree as defined in [subdivision one, two, three or five of section 265.01](#), and has been previously convicted of any crime; or
- (2) Such person possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or
- (3) Such person knowingly possesses a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or
- (4) *Repealed by L.2006, c. 742, § 1, eff. Nov. 1, 2006.*
- (5) (i) Such person possesses three or more firearms; or (ii) such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business; or
- (6) Such person knowingly possesses any disguised gun; or
- (7) Such person possesses an assault weapon; or
- (8) Such person possesses a large capacity ammunition feeding device. For purposes of this subdivision, a large capacity ammunition feeding device shall not include an ammunition feeding device lawfully possessed by such person before the effective date of the chapter of the laws of two thousand thirteen which amended this subdivision, that has a capacity

of, or that can be readily restored or converted to accept more than seven but less than eleven rounds of ammunition, or that was manufactured before September thirteenth, nineteen hundred ninety-four, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; or

(9) Such person possesses an unloaded firearm and also commits a drug trafficking felony as defined in [subdivision twenty-one of section 10.00](#) of this chapter as part of the same criminal transaction; or

(10) Such person possesses an unloaded firearm and also commits any violent felony offense as defined in [subdivision one of section 70.02](#) of this chapter as part of the same criminal transaction.

Criminal possession of a weapon in the third degree is a class D felony.

Credits

(Added L.1974, c. 1041, § 3. Amended L.1980, c. 233, § 7; L.1981, c. 175, § 4; [L.1987, c. 695, § 1](#); [L.1998, c. 378, § 3, eff. Nov. 1, 1998](#); [L.2000, c. 189, § 11, eff. Nov. 1, 2000](#); [L.2005, c. 764, § 2, eff. Dec. 21, 2005](#); [L.2006, c. 742, § 1, eff. Nov. 1, 2006](#); [L.2013, c. 1, § 41-b, eff. March 16, 2013](#).)

Editors' Notes

PRACTICE COMMENTARIES

by William C. Donnino

See Practice Commentary to [Penal Law § 265.01](#).

[Notes of Decisions \(552\)](#)

McKinney's Penal Law § 265.02, NY PENAL § 265.02
Current through L.2019, chapters 1 to 19.

EXHIBIT 8

H. R. 3355

One Hundred Third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twenty-fifth day of January, one thousand nine hundred and ninety-four*

An Act

To control and prevent crime.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Violent Crime Control and Law Enforcement Act of 1994”.

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PUBLIC SAFETY AND POLICING

- Sec. 10001. Short title.
- Sec. 10002. Purposes.
- Sec. 10003. Community policing; “Cops on the Beat”.

TITLE II—PRISONS

Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

- Sec. 20101. Grants for correctional facilities.
- Sec. 20102. Truth in sentencing incentive grants.
- Sec. 20103. Violent offender incarceration grants.
- Sec. 20104. Matching requirement.
- Sec. 20105. Rules and regulations.
- Sec. 20106. Technical assistance and training.
- Sec. 20107. Evaluation.
- Sec. 20108. Definitions.
- Sec. 20109. Authorization of appropriations.

Subtitle B—Punishment for Young Offenders

- Sec. 20201. Certain punishment for young offenders.

Subtitle C—Alien Incarceration

- Sec. 20301. Incarceration of undocumented criminal aliens.

Subtitle D—Miscellaneous Provisions

- Sec. 20401. Prisoner’s place of imprisonment.
- Sec. 20402. Prison impact assessments.
- Sec. 20403. Sentences to account for costs to the Government of imprisonment, release, and probation.
- Sec. 20404. Application to prisoners to which prior law applies.
- Sec. 20405. Crediting of “good time”.
- Sec. 20406. Task force on prison construction standardization and techniques.
- Sec. 20407. Efficiency in law enforcement and corrections.
- Sec. 20408. Amendments to the Department of Education Organization Act and the National Literacy Act of 1991.
- Sec. 20409. Appropriate remedies for prison overcrowding.
- Sec. 20410. Congressional approval of any expansion at Lorton and congressional hearings on future needs.

H. R. 3355—2

- Sec. 20411. Awards of Pell Grants to prisoners prohibited.
- Sec. 20412. Education requirement for early release.
- Sec. 20413. Conversion of closed military installations into Federal prison facilities.
- Sec. 20414. Post-conviction release drug testing—Federal offenders.
- Sec. 20415. Reporting of cash received by criminal court clerks.
- Sec. 20416. Civil rights of institutionalized persons.
- Sec. 20417. Notification of release of prisoners.
- Sec. 20418. Correctional job training and placement.

TITLE III—CRIME PREVENTION

Subtitle A—Ounce of Prevention Council

- Sec. 30101. Ounce of Prevention Council.
- Sec. 30102. Ounce of prevention grant program.
- Sec. 30103. Definition.
- Sec. 30104. Authorization of appropriations.

Subtitle B—Local Crime Prevention Block Grant Program

- Sec. 30201. Payments to local governments.
- Sec. 30202. Authorization of appropriations.
- Sec. 30203. Qualification for payment.
- Sec. 30204. Allocation and distribution of funds.
- Sec. 30205. Utilization of private sector.
- Sec. 30206. Public participation.
- Sec. 30207. Administrative provisions.
- Sec. 30208. Definitions.

Subtitle C—Model Intensive Grant Programs

- Sec. 30301. Grant authorization.
- Sec. 30302. Uses of funds.
- Sec. 30303. Program requirements.
- Sec. 30304. Applications.
- Sec. 30305. Reports.
- Sec. 30306. Definitions.
- Sec. 30307. Authorization of appropriations.

Subtitle D—Family and Community Endeavor Schools Grant Program

- Sec. 30401. Community schools youth services and supervision grant program.
- Sec. 30402. Family and community endeavor schools grant program.
- Sec. 30403. Authorization of appropriations.

Subtitle G—Assistance for Delinquent and At-Risk Youth

- Sec. 30701. Grant authority.
- Sec. 30702. Authorization of appropriations.

Subtitle H—Police Recruitment

- Sec. 30801. Grant authority.
- Sec. 30802. Authorization of appropriations.

Subtitle J—Local Partnership Act

- Sec. 31001. Establishment of payment program.
- Sec. 31002. Technical amendment.

Subtitle K—National Community Economic Partnership

- Sec. 31101. Short title.

CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

- Sec. 31111. Purpose.
- Sec. 31112. Provision of assistance.
- Sec. 31113. Approval of applications.
- Sec. 31114. Availability of lines of credit and use.
- Sec. 31115. Limitations on use of funds.
- Sec. 31116. Program priority for special emphasis programs.

CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

- Sec. 31121. Community development corporation improvement grants.
- Sec. 31122. Emerging community development corporation revolving loan funds.

CHAPTER 3—MISCELLANEOUS PROVISIONS

- Sec. 31131. Definitions.

H. R. 3355—3

- Sec. 31132. Authorization of appropriations.
- Sec. 31133. Prohibition.

Subtitle O—Urban Recreation and At-Risk Youth

- Sec. 31501. Purpose of assistance.
- Sec. 31502. Definitions.
- Sec. 31503. Criteria for selection.
- Sec. 31504. Park and recreation action recovery programs.
- Sec. 31505. Miscellaneous and technical amendments.

Subtitle Q—Community-Based Justice Grants for Prosecutors

- Sec. 31701. Grant authorization.
- Sec. 31702. Use of funds.
- Sec. 31703. Applications.
- Sec. 31704. Allocation of funds; limitations on grants.
- Sec. 31705. Award of grants.
- Sec. 31706. Reports.
- Sec. 31707. Authorization of appropriations.
- Sec. 31708. Definitions.

Subtitle S—Family Unity Demonstration Project

- Sec. 31901. Short title.
- Sec. 31902. Purpose.
- Sec. 31903. Definitions.
- Sec. 31904. Authorization of appropriations.

CHAPTER 1—GRANTS TO STATES

- Sec. 31911. Authority to make grants.
- Sec. 31912. Eligibility to receive grants.
- Sec. 31913. Reports.

CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

- Sec. 31921. Authority of the Attorney General.
- Sec. 31922. Requirements.

Subtitle T—Substance Abuse Treatment in Federal Prisons

- Sec. 32001. Substance abuse treatment in Federal prisons.

Subtitle U—Residential Substance Abuse Treatment for State Prisoners

- Sec. 32101. Residential substance abuse treatment for State prisoners.

Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions

- Sec. 32201. Prevention, diagnosis, and treatment of tuberculosis in correctional institutions.

Subtitle X—Gang Resistance Education and Training

- Sec. 32401. Gang resistance education and training projects.

TITLE IV—VIOLENCE AGAINST WOMEN

- Sec. 40001. Short title.

Subtitle A—Safe Streets for Women

- Sec. 40101. Short title.

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

- Sec. 40111. Repeat offenders.
- Sec. 40112. Federal penalties.
- Sec. 40113. Mandatory restitution for sex crimes.
- Sec. 40114. Authorization for Federal victim's counselors.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

- Sec. 40121. Grants to combat violent crimes against women.

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

- Sec. 40131. Grants for capital improvements to prevent crime in public transportation.

H. R. 3355—4

- Sec. 40132. Grants for capital improvements to prevent crime in national parks.
- Sec. 40133. Grants for capital improvements to prevent crime in public parks.

CHAPTER 4—NEW EVIDENTIARY RULES

- Sec. 40141. Sexual history in criminal and civil cases.

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

- Sec. 40151. Education and prevention grants to reduce sexual assaults against women.
- Sec. 40152. Training programs.
- Sec. 40153. Confidentiality of communications between sexual assault or domestic violence victims and their counselors.
- Sec. 40154. Information programs.
- Sec. 40155. Education and prevention grants to reduce sexual abuse of runaway, homeless, and street youth.
- Sec. 40156. Victims of child abuse programs.

Subtitle B—Safe Homes for Women

- Sec. 40201. Short title.

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

- Sec. 40211. Grant for a national domestic violence hotline.

CHAPTER 2—INTERSTATE ENFORCEMENT

- Sec. 40221. Interstate enforcement.

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

- Sec. 40231. Encouraging arrest policies.

CHAPTER 4—SHELTER GRANTS

- Sec. 40241. Grants for battered women's shelters.

CHAPTER 5—YOUTH EDUCATION

- Sec. 40251. Youth education and domestic violence.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

- Sec. 40261. Establishment of community programs on domestic violence.

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

- Sec. 40271. Grantee reporting.
- Sec. 40272. Technical amendments.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

- Sec. 40281. Confidentiality of abused person's address.

CHAPTER 9—DATA AND RESEARCH

- Sec. 40291. Research agenda.
- Sec. 40292. State databases.
- Sec. 40293. Number and cost of injuries.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

- Sec. 40295. Rural domestic violence and child abuse enforcement assistance.

Subtitle C—Civil Rights for Women

- Sec. 40301. Short title.
- Sec. 40302. Civil rights.
- Sec. 40303. Attorney's fees.
- Sec. 40304. Sense of the Senate concerning protection of the privacy of rape victims.

Subtitle D—Equal Justice for Women in the Courts Act

- Sec. 40401. Short title.

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

- Sec. 40411. Grants authorized.
- Sec. 40412. Training provided by grants.

H. R. 3355—5

- Sec. 40413. Cooperation in developing programs in making grants under this title.
- Sec. 40414. Authorization of appropriations.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

- Sec. 40421. Authorizations of circuit studies; education and training grants.
- Sec. 40422. Authorization of appropriations.

Subtitle E—Violence Against Women Act Improvements

- Sec. 40501. Pre-trial detention in sex offense cases.
- Sec. 40502. Increased penalties for sex offenses against victims below the age of 16.
- Sec. 40503. Payment of cost of testing for sexually transmitted diseases.
- Sec. 40504. Extension and strengthening of restitution.
- Sec. 40505. Enforcement of restitution orders through suspension of Federal benefits.
- Sec. 40506. National baseline study on campus sexual assault.
- Sec. 40507. Report on battered women's syndrome.
- Sec. 40508. Report on confidentiality of addresses for victims of domestic violence.
- Sec. 40509. Report on recordkeeping relating to domestic violence.

Subtitle F—National Stalker and Domestic Violence Reduction

- Sec. 40601. Authorizing access to Federal criminal information databases.
- Sec. 40602. Grant program.
- Sec. 40603. Authorization of appropriations.
- Sec. 40604. Application requirements.
- Sec. 40605. Disbursement.
- Sec. 40606. Technical assistance, training, and evaluations.
- Sec. 40607. Training programs for judges.
- Sec. 40608. Recommendations on intrastate communication.
- Sec. 40609. Inclusion in national incident-based reporting system.
- Sec. 40610. Report to Congress.
- Sec. 40611. Definitions.

Subtitle G—Protections for Battered Immigrant Women and Children

- Sec. 40701. Alien petitioning rights for immediate relative or second preference status.
- Sec. 40702. Use of credible evidence in spousal waiver applications.
- Sec. 40703. Suspension of deportation.

TITLE V—DRUG COURTS

- Sec. 50001. Drug courts.
- Sec. 50002. Study by the General Accounting Office.

TITLE VI—DEATH PENALTY

- Sec. 60001. Short title.
- Sec. 60002. Constitutional procedures for the imposition of the sentence of death.
- Sec. 60003. Specific offenses for which death penalty is authorized.
- Sec. 60004. Applicability to Uniform Code of Military Justice.
- Sec. 60005. Death penalty for murder by a Federal prisoner.
- Sec. 60006. Death penalty for civil rights murders.
- Sec. 60007. Death penalty for the murder of Federal law enforcement officials.
- Sec. 60008. New offense for the indiscriminate use of weapons to further drug conspiracies.
- Sec. 60009. Foreign murder of United States nationals.
- Sec. 60010. Death penalty for rape and child molestation murders.
- Sec. 60011. Death penalty for sexual exploitation of children.
- Sec. 60012. Murder by escaped prisoners.
- Sec. 60013. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
- Sec. 60014. Homicides and attempted homicides involving firearms in Federal facilities.
- Sec. 60015. Death penalty for the murder of State or local officials assisting Federal law enforcement officials and State correctional officers.
- Sec. 60016. Protection of court officers and jurors.
- Sec. 60017. Prohibition of retaliatory killings of witnesses, victims, and informants.
- Sec. 60018. Death penalty for murder of Federal witnesses.
- Sec. 60019. Offenses of violence against maritime navigation or fixed platforms.
- Sec. 60020. Torture.
- Sec. 60021. Violence at airports serving international civil aviation.
- Sec. 60022. Terrorist Death Penalty Act.

H. R. 3355—6

- Sec. 60023. Weapons of mass destruction.
- Sec. 60024. Enhanced penalties for alien smuggling.
- Sec. 60025. Protection of jurors and witnesses in capital cases.
- Sec. 60026. Appointment of Counsel.

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

- Sec. 70001. Mandatory life imprisonment for persons convicted of certain felonies.
- Sec. 70002. Limited grant of authority to Bureau of Prisons.

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

- Sec. 80001. Limitation on applicability of mandatory minimum penalties in certain cases.

TITLE IX—DRUG CONTROL

Subtitle A—Enhanced Penalties and General Provisions

- Sec. 90101. Enhancement of penalties for drug trafficking in prisons.
- Sec. 90102. Increased penalties for drug-dealing in “drug-free” zones.
- Sec. 90103. Enhanced penalties for illegal drug use in Federal prisons and for smuggling drugs into Federal prisons.
- Sec. 90104. Clarification of narcotic or other dangerous drugs under RICO.
- Sec. 90105. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
- Sec. 90106. Advertising.
- Sec. 90107. Violent crime and drug emergency areas.

Subtitle B—National Narcotics Leadership Act Amendments

- Sec. 90201. Implementation of National Drug Control Strategy.
- Sec. 90202. Report on reprogramming; office personnel restriction.
- Sec. 90203. National Drug Control Strategy outcome measures.
- Sec. 90204. Counter-Drug Technology Assessment Center.
- Sec. 90205. Special Forfeiture Fund amendments.
- Sec. 90206. Authorization of appropriations.
- Sec. 90207. Adequate staffing of the Office of National Drug Control Policy.
- Sec. 90208. Termination of Office of National Drug Control Policy.

TITLE X—DRUNK DRIVING PROVISIONS

- Sec. 100001. Short title.
- Sec. 100002. State laws applied in areas of Federal jurisdiction.
- Sec. 100003. Driving while intoxicated prosecution program.

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

- Sec. 110101. Short title.
- Sec. 110102. Restriction on manufacture, transfer, and possession of certain semi-automatic assault weapons.
- Sec. 110103. Ban of large capacity ammunition feeding devices.
- Sec. 110104. Study by Attorney General.
- Sec. 110105. Effective date.
- Sec. 110106. Appendix A to section 922 of title 18.

Subtitle B—Youth Handgun Safety

- Sec. 110201. Prohibition of the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

Subtitle C—Licensure

- Sec. 110301. Firearms licensure and registration to require a photograph and fingerprints.
- Sec. 110302. Compliance with State and local law as a condition to license.
- Sec. 110303. Action on firearms license application.
- Sec. 110304. Inspection of firearms licensees’ inventory and records.
- Sec. 110305. Reports of theft or loss of firearms.
- Sec. 110306. Responses to requests for information.
- Sec. 110307. Notification of names and addresses of firearms licensees.

Subtitle D—Domestic Violence

- Sec. 110401. Prohibition against disposal of firearms to, or receipt of firearms by, persons who have committed domestic abuse.

H. R. 3355—7

Subtitle E—Gun Crime Penalties

- Sec. 110501. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
- Sec. 110502. Enhanced penalty for second offense of using an explosive to commit a felony.
- Sec. 110503. Smuggling firearms in aid of drug trafficking.
- Sec. 110504. Theft of firearms and explosives.
- Sec. 110505. Revocation of supervised release after imprisonment.
- Sec. 110506. Revocation of probation.
- Sec. 110507. Increased penalty for knowingly making false, material Statement in connection with the acquisition of a firearm from a licensed dealer.
- Sec. 110508. Possession of explosives by felons and others.
- Sec. 110509. Summary destruction of explosives subject to forfeiture.
- Sec. 110510. Elimination of outmoded language relating to parole.
- Sec. 110511. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
- Sec. 110512. Using a firearm in the commission of counterfeiting or forgery.
- Sec. 110513. Enhanced penalties for firearms possession by violent felons and serious drug offenders.
- Sec. 110514. Receipt of firearms by nonresident.
- Sec. 110515. Theft of firearms or explosives from licensee.
- Sec. 110516. Disposing of explosives to prohibited persons.
- Sec. 110517. Increased penalty for interstate gun trafficking.
- Sec. 110518. Firearms and explosives conspiracy.
- Sec. 110519. Definition of armor piercing ammunition.

TITLE XII—TERRORISM

- Sec. 120001. Extension of the statute of limitation for certain terrorism offenses.
- Sec. 120002. Jurisdiction over crimes against United States nationals on certain foreign ships.
- Sec. 120003. Counterfeiting United States currency abroad.
- Sec. 120004. Sentencing guidelines increase for terrorist crimes.
- Sec. 120005. Providing material support to terrorists.

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

- Sec. 130001. Enhancement of penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 130002. Criminal alien tracking center.
- Sec. 130003. Alien witness cooperation and counterterrorism information.
- Sec. 130004. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 130005. Expeditious deportation for denied asylum applicants.
- Sec. 130006. Improving border controls.
- Sec. 130007. Expanded special deportation proceedings.
- Sec. 130008. Authority to accept certain assistance.
- Sec. 130009. Passport and visa offenses penalties improvement.
- Sec. 130010. Asylum.

TITLE XIV—YOUTH VIOLENCE

- Sec. 140001. Prosecution as adults of certain juveniles for crimes of violence.
- Sec. 140002. Commencement of juvenile proceeding.
- Sec. 140003. Separation of juvenile from adult offenders.
- Sec. 140004. Bindover system for certain violent juveniles.
- Sec. 140005. Amendment concerning records of crimes committed by juveniles.
- Sec. 140006. Increased penalties for employing children to distribute drugs near schools and playgrounds.
- Sec. 140007. Increased penalties for Travel Act crimes involving violence and conspiracy to commit contract killings.
- Sec. 140008. Solicitation of minor to commit crime.

TITLE XV—CRIMINAL STREET GANGS

- Sec. 150001. Criminal street gangs.
- Sec. 150002. Adult prosecution of serious juvenile offenders.
- Sec. 150003. Addition of anti-gang Byrne grant funding objective.
- Sec. 150006. Mentoring program.
- Sec. 150007. Juvenile anti-drug and anti-gang grants in federally assisted low-income housing.
- Sec. 150008. Gang investigation coordination and information collection.
- Sec. 150009. Multijurisdictional gang task forces.

TITLE XVI—CHILD PORNOGRAPHY

- Sec. 160001. Penalties for international trafficking in child pornography.

H. R. 3355—8

- Sec. 160002. Sense of Congress concerning State legislation regarding child pornography.
- Sec. 160003. Confirmation of intent of Congress in enacting sections 2252 and 2256 of title 18, United States Code.

TITLE XVII—CRIMES AGAINST CHILDREN

Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

- Sec. 170101. Establishment of program.
 - Subtitle B—Assaults Against Children
- Sec. 170201. Assaults against children.
 - Subtitle C—Missing and Exploited Children
- Sec. 170301. Short title.
- Sec. 170302. Purpose.
- Sec. 170303. Establishment of task force.

TITLE XVIII—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

- Sec. 180101. Authorizations for rural law enforcement agencies.
- Sec. 180102. Rural crime and drug enforcement task forces.
- Sec. 180103. Rural drug enforcement training.
- Sec. 180104. More agents for the Drug Enforcement Administration.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

- Sec. 180201. Drug free truck stops and safety rest areas.

Subtitle C—Sense of Congress Regarding Funding for Rural Areas

- Sec. 180301. Funding for rural areas.

TITLE XIX—FEDERAL LAW ENFORCEMENT

- Sec. 190001. Federal judiciary and Federal law enforcement.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

Subtitle A—Police Corps

- Sec. 200101. Short title.
- Sec. 200102. Purposes.
- Sec. 200103. Definitions.
- Sec. 200104. Establishment of office of the police corps and law enforcement education.
- Sec. 200105. Designation of lead agency and submission of State plan.
- Sec. 200106. Scholarship assistance.
- Sec. 200107. Selection of participants.
- Sec. 200108. Police corps training.
- Sec. 200109. Service obligation.
- Sec. 200110. State plan requirements.
- Sec. 200111. Assistance to States and localities employing police corps officers.
- Sec. 200112. Authorization of appropriations.
- Sec. 200113. Reports to congress.

Subtitle B—Law Enforcement Scholarship Program

- Sec. 200201. Short title.
- Sec. 200202. Definitions.
- Sec. 200203. Allotment.
- Sec. 200204. Establishment of program.
- Sec. 200205. Scholarships.
- Sec. 200206. Eligibility.
- Sec. 200207. State application.
- Sec. 200208. Local application.
- Sec. 200209. Scholarship agreement.
- Sec. 200210. Authorization of appropriations.

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Byrne Program

- Sec. 210101. Extension of Byrne Grant funding.

H. R. 3355—9

Subtitle B—Law Enforcement Family Support

Sec. 210201. Law enforcement family support.

Subtitle C—DNA Identification

Sec. 210301. Short title.

Sec. 210302. Funding to improve the quality and availability of DNA analyses for law enforcement identification purposes.

Sec. 210303. Quality assurance and proficiency testing standards.

Sec. 210304. Index to facilitate law enforcement exchange of DNA identification information.

Sec. 210305. Federal Bureau of Investigation.

Sec. 210306. Authorization of appropriations.

Subtitle D—Police Pattern or Practice

Sec. 210401. Cause of action.

Sec. 210402. Data on use of excessive force.

Subtitle E—Improved Training and Technical Automation

Sec. 210501. Improved training and technical automation.

Subtitle F—Other State and Local Aid

Sec. 210601. Reauthorization of Office of Justice Programs.

Sec. 210602. Federal assistance to ease the increased burdens on State court systems resulting from enactment of this Act.

Sec. 210603. Availability of violent crime reduction trust fund to fund activities authorized by the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

Sec. 220001. Short title.

Sec. 220002. Motor vehicle theft prevention program.

Sec. 220003. Altering or removing motor vehicle identification numbers.

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

Sec. 230101. Victim's right of allocution in sentencing.

Sec. 230102. Sense of the Senate concerning the right of a victim of a violent crime or sexual abuse to speak at an offender's sentencing hearing and any parole hearing.

Subtitle B—Crime Victims' Fund

Sec. 230201. Allocation of funds for costs and grants.

Sec. 230202. Relationship of crime victim compensation to certain Federal programs.

Sec. 230203. Administrative costs for crime victim compensation.

Sec. 230204. Grants for demonstration projects.

Sec. 230205. Administrative costs for crime victim assistance.

Sec. 230206. Maintenance of effort.

Sec. 230207. Change of due date for required report.

Sec. 230208. Amendment of the Victims of Crime Act.

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

Sec. 240001. Missing Alzheimer's Disease Patient Alert Program.

Sec. 240002. Crimes against the elderly.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Sec. 250001. Short title.

Sec. 250002. Enhanced penalties for telemarketing fraud.

Sec. 250003. Increased penalties for fraud against older victims.

Sec. 250004. Rewards for information leading to prosecution and conviction.

Sec. 250005. Authorization of appropriations.

Sec. 250006. Broadening application of mail fraud statute.

Sec. 250007. Fraud and related activity in connection with access devices.

Sec. 250008. Information network.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

Sec. 260001. Commission membership and appointment.

Sec. 260002. Conforming amendment.

H. R. 3355—10

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

- Sec. 270001. Presidential summit.
- Sec. 270002. Establishment; committees and task forces; representation.
- Sec. 270003. Purposes.
- Sec. 270004. Responsibilities of the Commission.
- Sec. 270005. Administrative matters.
- Sec. 270006. Staff and support services.
- Sec. 270007. Powers.
- Sec. 270008. Report; termination.
- Sec. 270009. Authorization of appropriations.

TITLE XXVIII—SENTENCING PROVISIONS

- Sec. 280001. Imposition of sentence.
- Sec. 280002. Technical amendment to mandatory conditions of probation.
- Sec. 280003. Direction to United States Sentencing Commission regarding sentencing enhancements for hate crimes.
- Sec. 280004. Authorization of probation for petty offenses in certain cases.
- Sec. 280005. Full-time vice chairs of the United States Sentencing Commission.
- Sec. 280006. Cocaine penalty study.

TITLE XXIX—COMPUTER CRIME

- Sec. 290001. Computer Abuse Amendments Act of 1994.

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

- Sec. 300001. Short title.
- Sec. 300002. Prohibition on release and use of certain personal information from State motor vehicle records.
- Sec. 300003. Effective date.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

- Sec. 310001. Creation of Violent Crime Reduction Trust Fund.
- Sec. 310002. Conforming reduction in discretionary spending limits.
- Sec. 310003. Extension of authorizations of appropriations for fiscal years for which the full amount authorized is not appropriated.
- Sec. 310004. Flexibility in making of appropriations.

TITLE XXXII—MISCELLANEOUS

Subtitle A—Increases in Penalties

- Sec. 320101. Increased penalties for assault.
- Sec. 320102. Increased penalties for manslaughter.
- Sec. 320103. Increased penalties for civil rights violations.
- Sec. 320104. Penalties for trafficking in counterfeit goods and services.
- Sec. 320105. Increased penalty for conspiracy to commit murder for hire.
- Sec. 320106. Increased penalties for arson.
- Sec. 320107. Increased penalties for drug trafficking near public housing.
- Sec. 320108. Task force and criminal penalties relating to the introduction of nonindigenous species.
- Sec. 320109. Military medals and decorations.

Subtitle B—Extension of Protection of Civil Rights Statutes

- Sec. 320201. Extension of protection of civil rights statutes.

Subtitle C—Audit and Report

- Sec. 320301. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds.
- Sec. 320302. Report to Congress on administrative and contracting expenses.

Subtitle D—Coordination

- Sec. 320401. Coordination of substance abuse treatment and prevention programs.

Subtitle E—Gambling

- Sec. 320501. Clarifying amendment regarding scope of prohibition against gambling on ships in international waters.

Subtitle F—White Collar Crime Amendments

- Sec. 320601. Receiving the proceeds of extortion or kidnapping.

H. R. 3355—11

- Sec. 320602. Receiving the proceeds of a postal robbery.
- Sec. 320603. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
- Sec. 320604. Miscellaneous amendments to title 18, United States Code.
- Sec. 320605. Federal Deposit Insurance Act amendment.
- Sec. 320606. Federal Credit Union Act amendments.
- Sec. 320607. Addition of predicate offenses to financial institutions rewards statute.
- Sec. 320608. Definition of “savings and loan association” for purposes of the offense of bank robbery and related offenses.
- Sec. 320609. Definition of 1-year period for purposes of the offense of obstruction of a Federal audit.

Subtitle G—Safer Streets and Neighborhoods

- Sec. 320701. Short title.
- Sec. 320702. Limitation on grant distribution.

Subtitle H—Recreational Hunting Safety

- Sec. 320801. Short title.
- Sec. 320802. Obstruction of a lawful hunt.
- Sec. 320803. Civil penalties.
- Sec. 320804. Other relief.
- Sec. 320805. Relationship to State and local law and civil actions.
- Sec. 320806. Regulations.
- Sec. 320807. Rule of construction.
- Sec. 320808. Definitions.

Subtitle I—Other Provisions

- Sec. 320901. Wiretaps.
- Sec. 320902. Theft of major artwork.
- Sec. 320903. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
- Sec. 320904. Gun-free school zones.
- Sec. 320905. Interstate wagering.
- Sec. 320906. Sense of Congress with respect to violence against truckers.
- Sec. 320907. Sense of the Senate regarding a study on out-of-wedlock births.
- Sec. 320908. Sense of the Senate regarding the role of the United Nations in international organized crime control.
- Sec. 320909. Optional venue for espionage and related offenses.
- Sec. 320910. Undercover operations.
- Sec. 320911. Misuse of initials “DEA”.
- Sec. 320912. Definition of livestock.
- Sec. 320913. Asset forfeiture.
- Sec. 320914. Clarification of definition of a “court of the United States” to include the district courts for Guam, the Northern Mariana Islands, and the Virgin Islands.
- Sec. 320915. Law enforcement personnel.
- Sec. 320916. Authority to investigate violent crimes against travelers.
- Sec. 320917. Extension of statute of limitations for arson.
- Sec. 320918. Sense of Congress concerning child custody and visitation rights.
- Sec. 320919. Edward Byrne Memorial Formula Grant Program.
- Sec. 320920. Sense of the Senate regarding Law Day, U.S.A.
- Sec. 320921. First time domestic violence offender rehabilitation program.
- Sec. 320922. Display of flags at halfstaff.
- Sec. 320923. Financial institution fraud.
- Sec. 320924. Definition of parent for the purposes of the offense of kidnapping.
- Sec. 320926. Hate Crime Statistics Act.
- Sec. 320927. Exemption from Brady background check requirement of return of handgun to owner.
- Sec. 320928. Amendment of the National Child Protection Act of 1993.
- Sec. 320929. Tennessee Valley Authority law enforcement personnel.
- Sec. 320932. Assistant United States attorney residency.
- Sec. 320933. Labels on products.
- Sec. 320934. Non-dischargeability of payment of restitution order.
- Sec. 320935. Admissibility of evidence of similar crimes in sex offense cases.

TITLE XXXIII—TECHNICAL CORRECTIONS

- Sec. 330001. Amendments relating to Federal financial assistance for law enforcement.
- Sec. 330002. General title 18 corrections.
- Sec. 330003. Corrections of erroneous cross references and misdesignations.
- Sec. 330004. Repeal of obsolete provisions in title 18.

H. R. 3355—12

- Sec. 330005. Correction of drafting error in the Foreign Corrupt Practices Act.
- Sec. 330006. Elimination of redundant penalty provision in 18 U.S.C. 1116.
- Sec. 330007. Elimination of redundant penalty.
- Sec. 330008. Corrections of misspellings and grammatical errors.
- Sec. 330009. Other technical amendments.
- Sec. 330010. Correction of errors found during codification.
- Sec. 330011. Problems related to execution of prior amendments.
- Sec. 330012. Amendment to section 1956 of title 18 to eliminate duplicate predicate crimes.
- Sec. 330013. Amendments to part V of title 18.
- Sec. 330014. Update of cross reference.
- Sec. 330015. Correction of error in amendatory language.
- Sec. 330016. Correction of misleading and outmoded fine amounts in offenses under title 18.
- Sec. 330017. Technical corrections to title 31 crimes.
- Sec. 330018. Repeal of superfluous statute of limitation and transfer of child abuse statute of limitation.
- Sec. 330019. Technical errors in section 1956.
- Sec. 330020. Technical error.
- Sec. 330021. Conforming spelling of variants of “kidnap”.
- Sec. 330022. Margin error.
- Sec. 330023. Technical corrections relating to section 248 of title 18, United States Code.
- Sec. 330024. Technical amendments necessitated by the enactment of the Domestic Chemical Diversion Control Act of 1993.
- Sec. 330025. Victims of Crime Act.

TITLE I—PUBLIC SAFETY AND POLICING

SEC. 10001. SHORT TITLE.

This title may be cited as the “Public Safety Partnership and Community Policing Act of 1994”.

SEC. 10002. PURPOSES.

The purposes of this title are to—

(1) substantially increase the number of law enforcement officers interacting directly with members of the community (“cops on the beat”);

(2) provide additional and more effective training to law enforcement officers to enhance their problem solving, service, and other skills needed in interacting with members of the community;

(3) encourage the development and implementation of innovative programs to permit members of the community to assist State, Indian tribal government, and local law enforcement agencies in the prevention of crime in the community; and

(4) encourage the development of new technologies to assist State, Indian tribal government, and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime,

by establishing a program of grants and assistance in furtherance of these objectives, including the authorization for a period of 6 years of grants for the hiring and rehiring of additional career law enforcement officers.

SEC. 10003. COMMUNITY POLICING; “COPS ON THE BEAT”.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

H. R. 3355—201

TITLE X—DRUNK DRIVING PROVISIONS

SEC. 100001. SHORT TITLE.

This title may be cited as the “Drunk Driving Child Protection Act of 1994”.

SEC. 100002. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking “For purposes” and inserting “(1) Subject to paragraph (2) and for purposes”; and

(2) by adding at the end the following new paragraph:

“(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine of not more than \$1,000, or both, if—

“(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

“(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

“(B) For the purposes of subparagraph (A), the term ‘minor’ means a person less than 18 years of age.”.

SEC. 100003. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking “and” at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.”.

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

SEC. 110101. SHORT TITLE.

This subtitle may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

SEC. 110102. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

H. R. 3355—202

“(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed under Federal law on the date of the enactment of this subsection.

“(3) Paragraph (1) shall not apply to—

“(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

“(B) any firearm that—

“(i) is manually operated by bolt, pump, lever, or slide action;

“(ii) has been rendered permanently inoperable; or

“(iii) is an antique firearm;

“(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

“(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine. The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this subsection is in effect.

“(4) Paragraph (1) shall not apply to—

“(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

“(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”.

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

“(30) The term ‘semiautomatic assault weapon’ means—

“(A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as—

“(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

“(ii) Action Arms Israeli Military Industries UZI and Galil;

“(iii) Beretta Ar70 (SC-70);

“(iv) Colt AR-15;

“(v) Fabrique National FN/FAL, FN/LAR, and FNC;

H. R. 3355—203

- “(vi) SWD M-10, M-11, M-11/9, and M-12;
- “(vii) Steyr AUG;
- “(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
- “(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;
- “(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—
 - “(i) a folding or telescoping stock;
 - “(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
 - “(iii) a bayonet mount;
 - “(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
 - “(v) a grenade launcher;
- “(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—
 - “(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
 - “(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
 - “(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
 - “(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
 - “(v) a semiautomatic version of an automatic firearm;
- and
- “(D) a semiautomatic shotgun that has at least 2 of—
 - “(i) a folding or telescoping stock;
 - “(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
 - “(iii) a fixed magazine capacity in excess of 5 rounds;
- and
- “(iv) an ability to accept a detachable magazine.”.

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking “or (q) of section 922” and inserting “(r), or (v) of section 922”.

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun,”.

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: “The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.”.

SEC. 110103. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 110102(a), is amended by adding at the end the following new subsection:

H. R. 3355—204

“(w)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

“(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of the enactment of this subsection.

“(3) This subsection shall not apply to—

“(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

“(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

“(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

“(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.”.

“(4) If a person charged with violating paragraph (1) asserts that paragraph (1) does not apply to such person because of paragraph (2) or (3), the Government shall have the burden of proof to show that such paragraph (1) applies to such person. The lack of a serial number as described in section 923(i) of title 18, United States Code, shall be a presumption that the large capacity ammunition feeding device is not subject to the prohibition of possession in paragraph (1).”.

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 110102(b), is amended by adding at the end the following new paragraph:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”.

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 110102(c)(1), is amended by striking “or (v)” and inserting “(v), or (w)”.

(d) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 110102(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition

H. R. 3355—205

feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

SEC. 110104. STUDY BY ATTORNEY GENERAL.

(a) **STUDY.**—The Attorney General shall investigate and study the effect of this subtitle and the amendments made by this subtitle, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) **REPORT.**—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 110105. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 110106. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

“APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M–1 Carbine
Iver Johnson 50th Anniversary M–1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30” Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

Case Name: *Rupp, et al. v. Becerra*
Case No.: 8:17-cv-00746-JLS-JDE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Xavier Becerra
Attorney General of California
Peter H. Chang
Deputy Attorney General
E-mail: peter.chang@doj.ca.gov
John D. Echeverria
Deputy Attorney General
E-mail: john.echeverria@doj.ca.gov
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct.

Executed March 25, 2019.

/s/Laura Palmerin
Laura Palmerin