

New York Secure Ammunition and Firearms Enforcement Act for 2013

Summary of effective dates
for the provisions of the
NY SAFE ACT

Provided compliments of:

**STEUBEN COUNTY SHERIFF
DAVID V. COLE**

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

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

Assault Weapons

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

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

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

Revolving cylinder shotguns will be classified as an illegal assault weapon outright.

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

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

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

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

Transfer Restrictions:

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

Exemptions include:

Antiques

Firearms which have been rendered permanently inoperable

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

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

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

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

Registration Requirements

The bill proposes to create a statewide registry of currently owned assault weapons across the state.

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

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

All assault weapons which qualify under the "one feature" test

All weapons grandfathered in under the original NYS Assault weapons ban ("two feature" weapons)

FOIL Implications:

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

Changes in Licensing Procedures:

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

Ammunition

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

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

Contains more than 7 rounds of ammunition*

Has a capacity for more than 7 rounds

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

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

New Crimes Established

Criminal Possession of a Weapon on School Grounds:

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

Mark's Law:

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

Safe Storage Mandates

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

Mental Health

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

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

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

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

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

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

- There is no exception that would allow an assault weapon to be transferred to another family member within the State.

RESTRICTIONS ON MAGAZINES

- The new law also limits the use of a magazine, referred to in the law as a high capacity feeding device. Under this law any magazine that has the capacity to accept more than 10 rounds is illegal to possess, regardless of the year in which it was made. (The old law allowed the possession of larger magazines that were made before 1994).

EFFECTIVE DATE: This part of the new law becomes effective on _____ (60 Days)

- In addition, magazines that have the capacity to contain more than 7 rounds may no longer be sold to our purchased by someone who isn't a gun dealer in New York State.

EFFECTIVE DATE: This part of the law is now in effect

- A person who currently owns a magazine that has the capacity to contain up to 10 rounds of ammunition may continue to possess the magazine provided that no more than 7 rounds may actually be loaded in it at any one time.

EFFECTIVE DATE: This part of the law becomes effective on _____ (60 Days)

FIREARMS LICENSES / PISTOL PERMITS

- The new law requires that all firearms licenses be renewed every five years. Permit holders will receive a notification explaining further details on how to renew or recertify a pistol permit before their renewal deadline.

EFFECTIVE DATE: This part of the law becomes effective on _____ (90 Days)

RESTRICTIONS ON AMMUNITION SELLERS

- The new law requires that ammunition sellers, who are not licensed firearm dealers, must register with the State Police
- Ammunition sellers may begin registering on April 15, 2013.
- The law also prohibits the sale of ammunition over the internet and requires in-person sales.

EFFECTIVE DATE: This part of the law becomes effective on January 15, 2014.

New York Secure Ammunition and Firearms Enforcement Act for 2013

On January 15, 2013, Governor Andrew M. Cuomo signed the New York Secure Ammunition and Firearms Enforcement Act of 2013 ("SAFE Act") that bans assault weapons, restricts magazines and makes several other amendments to New York State law in relation to guns.

Several of these amendments will affect current and future gun owners and will be phased in over a period of several months.

An outline of some of the major changes and their effective dates is set forth below:

BAN ON ASSAULT WEAPONS

- This new law redefines the term, "assault weapon" and bans the sale of those weapons falling under the new definition.
- The term "assault weapon" includes
 - any semiautomatic rifle or pistol with a detachable magazine and one of the military style features listed in the law, or
 - any semiautomatic shotgun with one of the military style features listed in the law

Further information detailing the specific types of weapons which are now considered to be "assault weapons" in New York State can be found on the NY State Police website at www.troopers.ny.gov.

EFFECTIVE DATES:

- This new definition of assault weapon is currently effective. At this time, no one may purchase or sell a weapon that qualifies as an assault weapon, outside of very strict limitations.
- A person who lawfully possessed one of these weapons before this law was passed may continue to possess it as long as the person registers the weapon with the New York State Police between April 15, 2013 and April 15, 2014 (1 year from the effective date of section 16-a, 4/15/13).
- The prohibition on transferring the weapon is currently in effect. A person who lawfully possesses one of these weapons may not sell or transfer the weapon within New York State to anyone who is not a licensed gun dealer.
- The weapon may be sold to an entity outside the State provided that the reporting requirements in the statute are complied with.

REGULATING THE PRIVATE SALES OF FIREARMS, RIFLES AND SHOTGUNS

- The new law regulates private sales of firearms, rifles and shotguns. A sale, exchange or disposal of such weapon may occur only after a background check has been conducted on the potential purchaser by a licensed gun dealer.
- A dealer may charge 10 dollars for the background check.
- The requirement of a background check applies to any private sale except a sale to an immediate family member (Spouse, domestic partner, children and step-children only).

EFFECTIVE DATE: This part becomes effective _____ (60 Days).

NYSAFE

SECURE AMMUNITION AND FIREARMS ENFORCEMENT ACT

FREQUENTLY ASKED QUESTIONS:

ASSAULT WEAPONS:

I OWN A GUN THAT I USE FOR HUNTING, IS IT AN ASSAULT WEAPON?

Most guns that are used for hunting are not assault weapons and are not affected by this law. Typical shotguns and hunting rifles are exempt as the law specifies military style assault weapons by design characteristics. For example, any pump, lever, or bolt action shotgun or rifle cannot be an assault weapon.

I OWN A HANDGUN, IS THAT AN ASSAULT WEAPON?

Most handguns are not assault weapons and are not affected by this law. A traditionally designed handgun is not an assault weapon. For example, a single shot pistol or a revolver cannot be an assault weapon.

I HAVE AN ASSAULT WEAPON. DO I HAVE TO GIVE IT UP?

No. If you have an assault weapon, you can register it with the State Police. You have until April 15, 2014 to register your weapon. A form will be made available on the New York State Police website at www.troopers.ny.gov. Under state and federal law, some people are not allowed to possess a weapon, such as convicted felons, individuals who have been involuntarily committed, or individuals currently under an order of protection. These people will not be able to register. There is no fee for registering. Assault weapons must be re-registered every five years.

IMPORTANT DATES

APRIL 15, 2013

- Registration for assault weapons begins
- Seven rounds in magazine(s)

JANUARY 15, 2014

- Background check is required for ammunition purchases.
- Discard, sell or permanently modify magazine(s) greater than ten rounds.

APRIL 15, 2014

- Assault weapons must be registered with the New York State Police.

WHAT DO I DO IF I DON'T WANT TO REGISTER MY ASSAULT WEAPON?

You can sell it to a New York State dealer or anyone out of state by January 15, 2014. Federal law has certain restrictions on shipping guns between states that you should consult before making a transfer.

IF I MODIFY MY GUN BY REMOVING ALL DESIGN CHARACTERISTICS THAT MAKES IT AN ASSAULT WEAPON, DO I HAVE TO REGISTER IT?

No. If you modify your gun so that it is not an assault weapon, you do not have to register it. The modification must be permanent, however. This includes, for example, removing the bayonet lug by cutting or grinding, grinding off the threads on the barrel, removing the foregrip so that it cannot be readily reattached, or any change that cannot be readily reattached, or any change that cannot be reversed through reasonable means.

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FREQUENTLY ASKED QUESTIONS (CONTINUED)

MAGAZINES

HOW HAS THE LAW CHANGED FOR MAGAZINES?

Starting April 15, 2013, only magazines that contain 7 rounds or less will be sold in New York, including permanently modified magazines.

WHAT IF I HAVE A MAGAZINE THAT CAN CONTAIN MORE THAN TEN ROUNDS?

You can permanently modify the magazine so that it holds no more than ten rounds, responsibly discard it, or sell it to a dealer or an out of state purchaser by January 15, 2014.

CAN MODIFIED MAGAZINES BE SOLD BY DEALERS OR INDIVIDUALS?

Yes, anyone can sell a modified magazine.

HOW MANY ROUNDS CAN I PUT IN MY MAGAZINE TODAY?

Ten. Starting on April 15, 2013, you are limited to putting in seven rounds, unless you are at an incorporated firing range or competition recognized by the National Rifle Association or International Handgun Metallic Silhouette Association, in which case the limit is ten.

ANTIQUE GUNS AND MAGAZINES

IS THERE ANY EXCEPTION FOR HISTORIC OR ANTIQUE GUNS AND MAGAZINES?

Yes, they are exempt from the prohibition against transfer, but if the gun qualifies as an assault weapon it must be registered.

WHAT QUALIFIES AS AN ANTIQUE GUN OR MAGAZINE?

Any magazine or gun manufactured more than 50 years ago.

I HAVE AN ANTIQUE THAT NOW QUALIFIES AS AN ASSAULT WEAPON. CAN I TRANSFER IT?

Yes, provided that you register both the gun and magazine using the same simple registration process that is used for assault weapons.

SAFE STORAGE

WHEN AM I REQUIRED TO SAFELY STORE MY GUN?

You are required to safely store your gun if you live with someone who has been convicted of a felony or domestic violence crime, has been involuntarily committed, or is currently under an order of protection. You can use an appropriate locking device including a trigger lock, a gun safe, or a secure gun cabinet.

DEALERS

I HAVE GUNS IN MY INVENTORY THAT ARE NOW DEFINED AS ASSAULT WEAPONS AND MAGAZINES THAT CONTAIN MORE THAN TEN ROUNDS. WHAT CAN I DO WITH THEM?

You can transfer them to another dealer or sell them out of state or to law enforcement. You can also permanently modify these guns and magazines and sell them in state.

IF SOMEONE PAID FOR A GUN BEFORE JANUARY 15, 2013 THAT IS NOW CLASSIFIED AS AN ASSAULT WEAPON, BUT THE GUN HASN'T BEEN DELIVERED TO THE BUYER, WHAT DO I DO?

You may still give the gun to the buyer, but it must be registered by April 15, 2014.

IF I SELL AMMUNITION, CAN I KEEP SELLING IT?

Yes. Currently the law does not add any obligations on sellers. Sellers of ammunition will have to register by January 15, 2014. A form will be made available and you will not need to appear in person or wait for a back-ground check.

IS THERE ANY BACKGROUND CHECK REQUIRED FOR PURCHASERS OF AMMUNITION NOW?

No. The background check requirement does not take effect until January 15, 2014.

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