



# COUNTY OF ERIE

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## **NYSAFE- New York Secure Ammunition and Firearms Enforcement Act**

### **FAQ**

Which rifles, shotguns and other firearms are now banned?

A rifle now qualifies as an "assault weapon" if it is semiautomatic, has a detachable magazine and any one of the following features: a flash suppressor, a folding or collapsible stock, a pistol grip, a thumbhole stock, a second handgrip for the non-trigger hand, a bayonet mount or a grenade launcher.

A semiautomatic shotgun with any one of these attributes, a fixed capacity of over seven rounds or a shroud that lets the shooter grab the barrel also qualifies. Revolving-cylinder shotguns are also banned. A semiautomatic pistol with a folding stock, a thumbhole stock, a second handgrip, the ability to accept a magazine outside of the grip, a shroud or a threaded barrel capable of accepting a silencer is also banned.

These new definitions take effect immediately, so firearms dealers are now prohibited from selling a newly classified assault weapon. The State Police will set up a website telling which guns are legal and which are not.

***Q: That new definition covers my gun. Is the government going to take it away, or force me to sell it?***

A: No.

***Q: What do I need to do to keep my gun under the new law?***

A: You must register with the State Police within a year — and pass a background check when you do — and then re-register every five years. A spokesman for the governor said you will not need to pay a fee to do so.

You could also sell the gun to a licensed retailer in the state, or someone out of state within the next year, provided you comply with the laws in that state and notify officials there. Otherwise, you will not be able to transfer the weapon — even to a family member. You have 13 months before you're violating this part of the law.

***Q: Can I still lawfully sell a rifle or a shotgun to someone in a private sale?***

A: Yes, but you must now have a licensed firearm dealer perform a background check of your buyer. There's an exception for the sale or gift of a rifle and shotgun between you and your spouse, domestic partner, child or stepchild.

The law does not say whether a dealer can charge for this background check. This part of the law takes effect in two months.

***Q: What about ammunition magazines?***

A: Before the law's passage, a magazine capable of holding 10 or more rounds was unlawful, but any magazine manufactured before 1994 was exempt. Law enforcement officials said this grandfathering provision made the ban difficult to enforce, and it was eliminated in the current law. Now those magazines are banned, but anyone who has one with a "reasonable belief" that it was lawful and disposes of it within 30 days of being notified by a law enforcement official that it is now illegal won't be guilty of violating the law. Otherwise, it is a Class A misdemeanor charge.

If you already have a magazine that holds up to 10 rounds, you can lawfully keep it, but you can't load it with more than seven rounds. If you're caught with a magazine containing more than seven rounds in your home, you'll get a ticket for your first offense, and then be subject to a misdemeanor charge. If you're caught with a magazine outside your house, you're subject to a misdemeanor charge. This part of the law takes effect in two months.

***Q: What about ammunition, more generally?***

A: For the first time, all ammunition must be purchased through a licensed dealer who performs a background check and records the sale through a new state-created database.

This provision won't take effect for a year, and at least one month after the head of the State Police certifies the database is operational.

***Q: I have a pistol and a permit for it. I'm not a criminal; I use it for target shooting. Does this bill affect me?***

A: Yes. You'll now need to re-register for your permit — and pass another background check — every five years. A spokesman for Gov. Andrew Cuomo said there would be no fee associated with this re-registration.

***Q: How does one go about getting the "Opt-out" Form?***

A: On February 15, 2013, the State Police issued create an "Opt-Out" form which may be used by either a new applicant for a pistol license, or a current license holder, to request an exception for his or her application information becoming a public record.

Pistol Permit Holders can go to [www.erie.gov/optout](http://www.erie.gov/optout), for additional information and to download and print the "Opt-Out" form. Permit Holders can also enter their e-mail address, click "SAVE", to receive updates regarding their pistol permit and the NY SAFE Act.

This Public Records Exemption form provides applicants and current license holders the opportunity to specify the grounds on which their information should not be publically disclosed.

***Permissible grounds are:***

- 1) The applicant's life or safety may be endangered by disclosure because:
  - \* The applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;
  - \* The applicant is a protected person under a currently valid order of protection;
  - \* The applicant is or was a witness in a criminal proceeding involving a criminal charge
  - \* The applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of the grand jury;
  - \* The applicant is a spouse, domestic partner or household member of the person identified in one of the other grounds.
- 2) The applicant has reason to believe his or her or safety may be endangered by disclosure due to reasons stated by the applicant.
- 3) The applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information.

The Licensing officer shall be the determinant of the allowance for an exception. Further, the request for an exception can be filed at any time. The applicant can be penalized with revocation of his or her license if they are found to not be truthful in their application.

The application for the exception is not a public record and must be physically filed in the Clerk's office separately from the applicants' license information.

Failure to apply for the exception leaves the name and address as a public record.

***Q: Who do I contact regarding additional information on the NYSAFE Act or the Re-Certification Process?***

**A: Call 1-855-LAW-GUNS (1-855-529-4867), Monday-Friday 9am-4pm.**

*Please note: This document is informational only and does not constitute legal advice.*