

Client Newsletter

Dibble & Miller, P.C.

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D&M^{P.C.}

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The SAFE Act

The New York State Secure Ammunition and Firearms Enforcement Act (SAFE Act) became law on January 14, 2013. The bill's passage was a swift legislative response to the December 14, 2012, shooting tragedy at Sandy Hook Elementary School in Newtown, Connecticut. The SAFE Act has already been amended, and it has drawn criticism for the lack of consideration given to the effect of some of its provisions.

SAFE Act Provisions

This newsletter is a brief overview of some of the SAFE Act's provisions. It is not intended as, and is not, a thorough review of the bill's provisions.

The SAFE Act:

- Changes the definition of "assault weapon" from two identified features (see the NYS Website, link is below) to one. The sale and/or transfer of newly defined assault weapons is banned within the state, although sales out of state are permitted. Possession of the newly-defined assault weapons is allowed only if they were possessed at the time that the law was passed, and they must be registered with the state within one year.
- Bans possession of any "high-capacity magazines" regardless of when they were made or sold. The maximum capacity for a detachable magazine is reduced from ten rounds to seven. Magazines owned before passage of the SAFE Act able to hold seven to ten rounds can be possessed, but cannot be loaded with more than seven rounds. .22 caliber tubular magazines are exempt from this limit. Previously legal "pre-1994-ban" magazines with a capacity of 30 rounds are not exempt, and must be transferred by January 14, 2014 to an out-of-state resident or surrendered to local authorities. The magazine limit took effect April 15, 2013. Ten round magazines can still be fully loaded at firing ranges or in shooting competitions. In March 2013, the magazine limit provision was scaled back, allowing ten round magazines to continue to be sold, but still only loaded with seven rounds outside of ranges and competitions.
- Requires ammunition dealers to do background checks, similar to those for gun buyers. Dealers are required to report all sales, including amounts to the state. Internet purchases of ammunition are allowed, but the ammunition will have to be shipped to a licensed dealer in New York state for pickup. Ammunition background checks will begin January 15, 2014.

- Requires creation of a registry of assault weapons. Those New Yorkers who already own such weapons would be required to register their guns with the state. Registry began on April 15, 2013 and must be completed before April 15, 2014.
- Requires designated mental health professionals providing treatment services to a person who determine that the person "is likely to engage in conduct that would result in serious harm to self or others" to report the threat to a mental health director, who would then have to report serious threats to the state Department of Criminal Justice Services. A patient's gun could be taken from him or her.
- Requires stolen guns be reported within 24 hours. Failure to report can result in a misdemeanor charge.
- Requires background checks for all gun sales, including by private sellers - except for sales to members of the seller's immediate family. Private sale background checks began March 15, 2013.
- Guns must be "safely stored" to prevent access by any household member who has ever been convicted of a felony or domestic violence crime, has been involuntarily committed, or is currently under an order of protection. Unsafe storage of assault weapons is a misdemeanor.
- Bans the Internet sale of assault weapons in New York.
- Increases sentences for gun crimes, including upgrading the offense for taking a gun on school property, from a misdemeanor to a felony.
- Increases penalties for shooting first responders (Town of Webster provision) to life in prison without parole.
- Limits the state records law to protect handgun owners from being identified publicly. However, existing permit holders have to opt into this provision by filing a form within 120 days of the law's enactment. There also may exist issues with respect to "registered" owners in the new regulations vs "permit" holders under previous law.
- Requires pistol permit holders or owners of registered assault weapons to have their permits renewed at least every five years.

For further details, see www.governor.ny.gov/nysafeact/gun-reform.

Reaction to the SAFE Act

If you drive in the countryside, you are likely to see what appears to be a grassroots effort (yard signs) asking to "Repeal NY's SAFE Act."

There is criticism that the new definition of assault weapons is too broad.

Some mental health practitioners are concerned that the SAFE Act may interfere with their treatment of individuals who may pose a danger to themselves or others, or discourage such people from seeking treatment.

Many New York Counties have passed resolutions in opposition to enforcement of the SAFE Act.

Dibble & Miller, P.C. the SAFE Act, and Handguns

The SAFE Act criminalizes previously lawful possession and use of firearms and firearms components. Dibble & Miller, P.C. will provide guidance on how to comply with the SAFE Act. Do not let innocent activities that were previously lawful expose you to criminal prosecution.

Dibble & Miller, P.C. has represented a number of individuals who were facing loss of their pistol permits. If you find yourself in that situation, consult with Dibble & Miller, P.C. to protect your rights.

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WE THANK YOU FOR USING OUR FIRM.

PLEASE REMEMBER THAT WE HAVE AN EXTENSIVE PRACTICE TO SERVE YOU:

- **Business Agreements** — *All Types, including Non-Compete, Buy-Sell, Non-Disclosure, Employment, Shareholder and Partnership Agreements*
- **Business Formations** — *Start-Up Businesses and Partnerships, Business Purchase and Sale Agreements, and Formation of Corporations and LLC*
- **Criminal Law** — *Arrests, Felonies, Misdemeanors, Traffic Tickets, White Collar Crimes, DWIs, Plea Bargains, Trials, and Appeals (State and Federal)*
- **Debtor Rights** — *Debt Resolution and Bankruptcy — We Are A Debt Relief Agency — We Help People File for Bankruptcy Under the Bankruptcy Code*
- **Estate Planning** — *Preparation of Wills, Trusts, Health Care Proxies, and Powers of Attorney; Medicaid and Estate Planning; and Estate Administration*
- **Family Law** — *Divorce, Custody, Visitation, Child Support, Paternity, Pre-Nuptial Agreements, Separation Agreements, and Family Mediation*
- **Litigation** — *Civil, Business, Contract, Commercial, Corporate, Real Estate and Stockholder and Partner Disputes*
- **Personal Injury** — *All Types, including Car Accidents, Slip and Fall, Physical and Sexual Abuse, Assaults and Work Accidents*
- **Real Estate** — *Residential and Commercial Purchases, Sales, Closings, Mortgages, Land Contracts, Foreclosures and Real Estate Leases*
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 - *Responsible Person and TFRP Defense for Trust Funds, Sales, Use and Withholding Taxes Assessments and Collections*
 - *Preparation, Filing and Negotiation of Offers in Compromise*
 - *Negotiation of Tax Installment Agreements and Tax Payment Plans*
 - *Innocent & Injured Spouse Defense*

*** IF YOU NEED LEGAL ADVICE, PLEASE CONTACT US FOR A FREE CONSULTATION ***