

Overview of S.2230 (Klein)/A.2388 (Silver) – GPB #1
Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013
January 15, 2013

The Governor, Assembly and Senate developed the “Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013 that is designed to reduce the prevalence and use of assault weapons. For your review we have delineated below the major provisions included in this legislation. As you will see, there are some provisions that impact colleges and universities. These provisions are highlighted.

The major provisions include:

- Imposes Additional Restrictions on Assault Weapons
- Addresses Firearm Licensing
- Restricts Private Firearm Sales
- Requires Safe Storage of Firearms
- Addresses Issues Related to Persons with Mental Illness
- New and Enhanced Criminal Penalties
- School Safety Provisions

Imposes Additional Restrictions on Assault Weapons:

- Expands the existing definition of what constitutes an assault weapon;
- Requires the registration of “assault weapons” with the state within one year;
- Subjects the owners of such weapons to a State Police review;
- Bans “high capacity” firearm magazines (those that hold more than seven rounds);
- Bans the sale of assault weapons via the Internet;
- Establishes a system to track ammunition purchases in real time to enable alerts on high volume buyers; and
- Provides that only licensed firearm sellers can sell ammunition, and requires such sellers to perform a background check before any ammunition sales.

Firearm Licensing

- Establishes a statewide gun license and record database;
- Exempts this database from the Freedom of Information Law (FOIL);
- Requires all gun licenses to be recertified every five years;
- 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 pursuant to the CPL; and

- Provides for the mandatory suspension or revocation of the firearms license of a person against whom an order of protection or a temporary order of protection has been issued.

Private Firearm Sales

- Requires a background check to be performed for all gun sales.

Firearm Storage

- Establishes safe storage requirements for rifles, shotguns and firearms;
- Provides that failure to safely store a firearm is punishable by a Class A misdemeanor; and
- Requires firearm owners to report the theft of a firearm within 24 hours, and makes failure to do so a Class A misdemeanors.
- Provisions Related to Persons with Mental Illness
- Extends Kendra's Law, set to expire in 2015, until 2017;
- Extends the duration of an initial assisted out-patient treatment order from 6 months to one year;
- Amends the Mental Hygiene Law to ensure that persons who are mentally ill and pose a danger to themselves or others cannot obtain or retain a firearm;
- Requires mental health professionals to report if an individual they are treating is likely to engage in conduct that will cause serious harm to him or herself or others. The specific language reads as follows:

§ 20. The mental hygiene law is amended by adding a new section 9.46 to read as follows:

§ 9.46 Reports of substantial risk or threat of harm by mental health professionals.

(a) For purposes of this section, the term "mental health professional" shall include a physician, psychologist, registered nurse or licensed clinical social worker.

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a

license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

(c) Nothing in this section shall be construed to require a mental health professional to take any action which, in the exercise of reasonable professional judgment, would endanger such mental health professional or increase the danger to a potential victim or victims.

(d) The decision of a mental health professional to disclose or not to disclose in accordance with this section, when made reasonably and in good faith, shall not be the basis for any civil or criminal liability of such mental health professional; and Provides that where such a report is made and such person holds a firearms license, the local licensing official will be notified and local law enforcement authorized to “remove any and all such weapons.”

New and Enhanced Criminal Penalties

- Makes the intentional murder of certain first responders a Class A-1 felony eligible for a sentence of life without parole;
- Establishes the new offense of aggravated enterprise corruption, which occurs when gangs illegally purchases weapons for use in criminal activity by creating an A-1 felony;
- Increases the penalty for possession of a firearm on school grounds or on a school bus from a misdemeanor to a Class E Felony; The specific language reads as follows:

§ 265.01-a. Criminal possession of a weapon on school grounds.

A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a rifle, shotgun, or firearm in or upon a building or grounds, used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, or upon a school bus as defined in section one hundred forty-two of the vehicle and traffic law, without the written authorization of such educational institution. Criminal possession of a weapon on school grounds is a class E felony.

- Increases penalties for possession of a firearm during commission of a felony or drug offense, and establishes mandatory minimum sentences;
- Adds provisions intended to address “straw purchasers” (one who legally purchases a weapon on behalf of another) and “community guns” (one that is made available to multiple people)
- School Safety
- Establishes New York State School Safety Improvement Teams to review, assess, and make recommendations on School Safety Plans submitted by school districts;
- Authorizes state building aid reimbursement for school security devices under certain circumstances.