



## POSITION STATEMENT

### A6157 & A6294/S4084 PROHIBIT POSSESSION OF ASSAULT WEAPONS

#### CONCEPT

This legislation would prohibit the possession of semi-automatic and pump action rifles, semi-automatic shotguns and semi-automatic pistols that have certain cosmetic characteristics that the sponsors deem would pose a threat to public health and safety. These guns are referred to by them as “assault weapons” and declared to be military weapons with no legitimate sporting use. This is, in fact, an attempt to impose restrictions on the shooting public, based on characteristics that the sponsors find objectionable without regard to their functionality and legitimate sporting use.

#### POSITION

The proposed legislation should not be enacted. It is based on misinformation, misrepresentations, and an absence of technical knowledge. The purpose appears to be to fan public emotions in order to elicit support for gun control legislation and to bolster long-term efforts to severely restrict or ban all privately held firearms. The objective here is to create an illusion that these disfavored firearms, which are in reality a normal evolution of the sporting rifle, pose a grave risk that merits the compromise of a Constitutional right.

#### Definitions

While there is no agreed on definition of the term “assault rifle”, the following definitions will serve for use in this document:

A semi-automatic rifle or shotgun is a shoulder weapon that fires a single shot with each pull of the trigger and is intended for civilian sporting or self-defense use. Rifles and shotguns are defined in the Penal Law<sup>1</sup>. Dealer sales must comply with Federal law<sup>2</sup>.

A semi-automatic pistol is a firearm that fires a single shot with each pull of the trigger and is intended for sporting or self-defense use by private citizens. Possession requires licensing under New York State law<sup>3</sup>, as well as complying with Federal law as above.

An assault rifle is a fully automatic military weapon intended for use as a standard infantry rifle. These weapons are already illegal in New York State for all but law enforcement and military use<sup>4</sup>. They are also tightly regulated under Federal law by the National Firearms Act (1934)<sup>5</sup> and the Gun Control Act (1968)<sup>6</sup>.

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<sup>1</sup> P.L. § 265.00(11) and (12)

<sup>2</sup> 18 U.S.C. § 922(t)

<sup>3</sup> P.L. § 400

<sup>4</sup> P.L. § 265.02

<sup>5</sup> 26 U.S.C. § 5845(a) and 5861

<sup>6</sup> 18 U.S.C. § 922(d)(3) and 922(o)

Assault pistols and assault shotguns are functionally meaningless terms as they merely reflect cosmetic features that the sponsors of the legislation find objectionable. There is no mechanical or functional difference between guns so labeled and other guns of the same mechanical design or type.

## History

The first semi-automatic rifle was introduced in Europe in 1885, the first semi-automatic pistol, also in Europe, in 1892. The first semi-automatic shotgun appeared on the market in both Europe and the United States in 1900. All were commercial products, designed for and sold in the civilian market. While the most military organizations adopted the semi-automatic pistol in the first decade of the 20<sup>th</sup> century, semi-automatic rifles and shotguns remained civilian products. Other than prototypes or privately purchased weapons, semi-automatic shoulder arms were not employed by any major military organization until the United States adopted the M1 Garand in 1936.

The first military weapon that could be called an assault rifle was the Russian Federov Avtomat, introduced in 1916. Only about 3,000 were manufactured but they were used in the Russian Civil War, making it the first combat appearance of the assault rifle. The assault rifle in its current form first appeared in World War II. Germany introduced the StG.44 in 1943 and the Soviet Union followed with the SKS in 1945 and the AK47 in 1947. The United States adopted the M16 in 1963 and received the first deliveries in 1964 – at the same time that the semi-automatic AR-15 came on the civilian market.<sup>7</sup>

What is clear is that semi-automatic rifles have been part of the civilian firearms market since their inception and, in fact, preceded any military use. As in other disciplines, the interchange of technology between the civilian and military sectors is normal. Government investment in the development of small arms for the military produced technologies, engineering, and materials that were naturally transferred to the civilian sector where accuracy, reliability and flexibility are equally in demand in sporting firearms.

### **The firearms affected by this legislation are legitimate sporting firearms.**

The proposal makes no attempt to determine the nature or purpose of specific firearms but makes judgments based on perceptions. It wipes out the exemption for firearms that had already been determined to be sporting arms under the now defunct Federal ban. It also gives the Superintendent of State Police the sole authority to determine what semi-automatic rifles and shotguns are to be determined as not to have a sporting purposes and thus prohibited.

Semi-automatic and pump action rifles and shotguns are widely used for hunting, formal and informal target shooting, and personal defense. Rifles labeled as “assault weapons” are, in fact, the most commonly used rifles in local and national centerfire rifle marksmanship competition. They are modern sporting rifles employing technological developments that first appeared in military firearms. Many of the features that this proposal finds objectionable have been in regular use by hunters and competitive shooters for many years.

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<sup>7</sup> The “AR” stands for the Armalite Corporation, the developer of the rifle, not “assault rifle”.

Several pistols used in competition from local level to the Olympic Games would be banned<sup>8</sup>. These pistols commonly use magazines outside of the pistol grip to maintain a desired balance and allow full customization of the grip. Muzzle brakes or compensators are frequently used to prevent disturbance of the sight picture during timed events.

**This is an attempt to ban features on a cosmetic basis regardless of functionality.**

No military assault rifle, in the past or currently in service, has a thumbhole stock, yet this proposal would ban them. Telescoping stocks allow easy adjustment of stock length to fit different individuals, shooting positions or clothing. The ban on folding stocks has no real world effect, as the minimum length of rifles and shotguns under Federal law is 26 inches; any stock on a handgun is already prohibited by Federal law and has been for past 65 years<sup>9</sup>.

Muzzle brakes or compensators are frequently used on all types of rifles, manual and semi-automatic, to enhance accuracy as well as to reduce perceived recoil. Their use on pistols is pretty much limited to competition pistols, as they are not practical for service or defensive handguns.

The use of barrel shrouds on semi-automatic rifles and handguns is purely a cosmetic feature. Firing these guns with a hand wrapped around the barrel is not conducive to accuracy. It serves only as a media stunt.

This legislation proposes to ban features purely on the perception of the authors of this legislation, irrespective of the actual function. They wish to ban what they perceive as “ugly rifles”.

**These firearms are not “high powered weapons of war”.**

Power is a function of the ammunition used and semi-automatic firearms use the same ammunition as other sporting firearms. Those rifles characterized by the proposed legislation as “assault weapons” are most commonly chambered for intermediate power cartridges.

Nor are these firearms “weapons of war”. The semi-automatic sporting firearms that would be impacted by this legislation are functionally identical to all other sporting arms and are differentiated only by the perception of cosmetic or legitimately functional features. Technological innovation has altered their appearance, not their function.

**There is no indication of increased criminal use of the firearms targeted by this legislation.<sup>10</sup>**

The overall homicide rate in the United States has been stable for the last 10 years and is roughly the same as in the decade following World War II. The drop in homicide rates from the high levels reached of the 1980’s is primarily due to a drop in handgun homicides. The use of rifles of all types in homicides is less than it was 25 years ago.

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<sup>8</sup> International and Olympic rules are available at [www.shooting-issf.org](http://www.shooting-issf.org) and United States rules are at [www.nrahq.org/compete/nra-rule-books.asp](http://www.nrahq.org/compete/nra-rule-books.asp)

<sup>9</sup> 26 U.S.C. § 5845(a) and 5861

<sup>10</sup> All of the statistics in this section are from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. [www.ojp.usdoj.gov/bjs](http://www.ojp.usdoj.gov/bjs)

There was no perceptible impact on crime rates during the ten years the Federal “assault weapons” ban was in effect. This was from September 1994 until it sunsetted in September 2004. Even the Violence Policy Center, a virulent anti-gun group, stated, “You can’t argue with a straight face that the ban has been effective”<sup>11</sup>. California enacted its own statewide ban in 1989 and expanded it in 2000. Since then, it has seen its homicide rate increase by 13%, while the nation as a whole saw a 2% decline.

Homicide rates would have fallen further except for increases in murders related to the narcotics trafficking and gang violence, both juvenile and adult. Gang related homicides alone have increased eight fold over the last 25 years. The homicide rate, as well as most other violent crime rates, is significantly higher in urban areas – areas where the private ownership of firearms is most strongly discouraged. In 1907, the homicide rate in the United States was 4.9 per 100,000. One hundred years later, it was 5.6. There are always bad people who will do appalling things. They are not likely to be deterred by legislation of this type.

The Attorneys General of 23 states said, “We do not believe that further restricting law-abiding Americans access to certain semi-automatic firearms serves any real law enforcement purpose”.<sup>12</sup>

## **RECOMMENDATION**

This proposal would compound an already pointless, ineffective, and intrusive law and makes it worse by imposing needless restrictions on firearms owners.

It renders illegal a large number of semi-automatic rifles that have already been determined by the Federal government to be suitable for sporting purposes.

Bans features the drafters find objectionable purely on a cosmetic basis.

Bans functional features that have nothing to do with military weapons.

It characterizes these firearms as crime weapons without any statistical evidence. In fact, the evidence indicates the contrary.

Yields what should be legislative authority to the Superintendent of State Police without public input, oversight, or review.

The promotion of legislation of this type, based on erroneous definitions and misleading or false allegations, diverts attention and resources from valid public safety initiatives. There is no correlation between lawful firearms possession, regardless of type, and high crime rates. If anything, the reverse is true. This is true domestically and worldwide. This is another example of exploiting crimes where the type of firearm had no bearing on the outcome in furtherance of a broader objective – imposition of a total firearms ban, one type at a time. This legislation should not be enacted and the existing P.L. § 265.00 (22) and (23) should be repealed.

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<sup>11</sup> R. Montgomery (2004, May 2) *Clock Ticking on Assault Gun Ban: Flaws Put Extension in Doubt*, Kansas City Star, A1

<sup>12</sup> Letter to the United States Attorney General dated June 11, 2009