

GOVERNOR'S PROGRAM BILL
2022

MEMORANDUM

An act to amend the penal law, in relation to
the definition of firearms

Purpose:

To amend the definition of "firearm" under Penal Law 265.00(3) to create a catchall provision to encompass certain types of guns that are of uncertain legal status under current Penal Law definitions.

Summary of Provisions:

Section 1 of this bill would amend Penal Law 265.00(3) to include a catchall provision within the definition of "firearm."

Section 2 defines the effective date of 90 days after becoming law.

Existing Law:

Penal Law §§ 265.00(11) and (12) define the terms "rifle" and "shotgun." These definitions are limited to guns that are "designed or redesigned, made or remade, and intended to be fired from the shoulder." Additionally, the Penal Law bans the possession of short barreled shotguns and rifles ("SBS" and "SBR"), which are recognized as significant public safety threats; however, a weapon is only a SBS if it is first a "shotgun" and only a SBR if it is first a "rifle" under state law. This means that weapons that are functionally equivalent to SBSs and SBRs are not prohibited in New York if they are not shoulder-fired because they are not considered "shotguns" or "rifles."

Justification:

Certain products have come to market recently that are functionally equivalent to traditionally-outlawed short-barreled shotguns ("SBS") and short-barreled rifles ("SBR"), but they are different in that they are not equipped with a shoulder stock. Consequently, gun manufacturers and dealers promote these weapons as "other weapons" that are not prohibited SBSs or SBRs because they are not shoulder-fired and therefore are not "shotguns" or "rifles." Unfortunately, this position has been supported by various ATF interpretations of federal law. Similarly, these products are marketed as not being pistols either – a position also supported by the ATF. This means that this particular category of weapons is of uncertain legal status under existing state firearm laws.

This bill would create a catchall firearm definition that encompasses these weapons, meaning that functional equivalents of SBSs and SBRs could not be bought, sold, or possessed in New York State based on this simple marketing distinction that is of no practical difference.

Legislative History:

N/A

Budget Implications:

None known.

Effective Date:

This act shall take effect on the ninetieth day after it shall have become a law.