

To: Interested Parties
From: Michael Whyland
Re: Pending New York Legislation to Strengthen Gun Control

The New York State Assembly has consistently passed a number of measures that would put in place stronger more sensible gun restrictions. In wake of the horrific shootings in Newtown, CT and other recent mass shootings throughout the country as well as continued gun violence on the streets of our cities and towns, we will continue to push to enact the following legislation as well as consider new legislation to address this unspeakable event. The following is a list of bills and their legislative histories.

Ban Dangerous, High Capacity Weapons and Ammunition

Strengthen Assault Weapons Ban - A6108 (Titone)

The Federal Assault Weapons Ban expired in 2004. And while under New York law, it continues to be illegal to possess, sell and manufacture assault weapons, we can do more. Manufacturers have found loopholes in the specific language of New York's statute and they have exploited those loopholes. This bill would replace the definition of an "assault weapon" with a new definition that relies on the characteristics of the weapon and includes definitions of assault weapon devices that are designed to enhance the lethality of these weapons. The need for a stronger assault weapons ban is underscored by the fact that the Bushmaster semiautomatic rifle used in Connecticut would apparently be legal under New York's current law.

Legislative History:

Assembly – Passed four times since 2008

Keeping Guns Out of the Hands of Criminals and Others who Present a Danger

Remove Firearms from Persons Adjudged Mentally Incapacitated - A3081 (Lupardo)

The law currently does not expressly empower courts to remove firearms and revoke firearm licenses of individuals who have been adjudicated as incapacitated or ordered to treatment or commitment to a mental health facility. This bill would provide that anyone subject to such orders shall have an existing firearm license revoked and be ordered to surrender all firearms, rifles or shotguns in his or her possession. This would enable courts to further protect the public by giving them the express authority they need to take weapons out of the hands of individuals who, as a matter of law, have no right to possess them.

Legislative History:

Assembly – Passed in 2011 and 2012

Remove Firearms from Domestic Violence Perpetrators - A2494-A (O'Donnell), A4488 (Lancman) and A6406-A (Weinstein)

A firearm in the hands of any criminal is a threat, and this is especially true if it is in the hands of a domestic abuser. Fifty-four percent of female homicides are committed with a firearm and two thirds of all women killed with firearms are killed by their domestic partners.

These bills would require judges in criminal and family court proceedings to inquire as to the possession of a firearm by the defendant or respondent when an order of protection is issued and expand the definition of serious offense in the penal law to ensure that domestic violence perpetrators are prohibited from possessing firearms. Also, A6404-A amends the law to make immediate surrender of firearms mandatory where the court finds a substantial risk that the individual may use or threaten to use a firearm

unlawfully against the person for whose protection the order is issued. Currently, mandatory suspension of firearms despite such a substantial risk to the protected party is discretionary, except under certain very limited circumstances.

Legislative History:

Assembly – All Passed in 2012

Handgun License Renewal – A380 (Paulin)

Currently, New York State requires handgun licenses in all of its counties, and there is an investigative process when someone applies for such a license. However, only in New York City and the counties of Nassau and Suffolk do such licenses require periodic renewal, and in Westchester county such licenses require periodic recertification.

License renewal is an important way to ensure not only that records are updated but also that handguns do not fall into the wrong hands. It is illegal for a person convicted of a felony or a domestic violence misdemeanor, suffering from a mental incapacity or subject to an order of protection to possess firearms. Yet outside of New York City and Nassau and Suffolk counties, when a person is barred from legal possession, handgun licenses are not automatically revoked or in Westchester County when a person fails to recertify his license. Accordingly, under current law, a person who is issued a license but subsequently commits some act that would legally prohibit him from possessing a firearm (or fails to recertify his license in the case of Westchester County), is nevertheless able to continue to possess his firearm under a valid license.

License renewal ensures that an investigative process takes place at the time of renewal through which vital information will be uncovered by law enforcement as well as makes clear that licenses that are not timely renewed expire and are no longer valid.

Legislative History:

Assembly – Passed in 2009

Safe Storage of Weapons - A3292B (Weisenberg)

Establishes the "Children's Weapon Accident Prevention Act" and creates crimes related to the unsafe storage of a weapon and criminally negligent storage of a weapon. The intent of the bill is to protect children, and others, from injury and death due to unauthorized access, discharge and use of weapons.

Legislative History:

Assembly – Passed eight times since 1993

Enhance Law Enforcement Tools to Solve Gun Crimes

Microstamping - A. 1157-B (Schimel)

Microstamping technology utilizes lasers to make precise, microscopic engravings on the internal mechanisms of a gun, such as the breech face and firing pin. As the gun is fired, information identifying the make, model and serial number of the gun can be stamped onto the cartridge as numbers and letters. The technology is designed to aid law enforcement officials investigating homicides and other crimes by allowing them to trace firearms through cartridge cases found at crime scenes.

Microstamping represents a significant advancement over existing ballistic identification technology. Because the technology of microstamping imprints the identifying characteristics of a firearm onto every cartridge ejected from the gun, investigators need only recover the cartridges at a crime scene to be able to identify the actual crime gun. Current ballistics identification technology is much more limited. While it can be used to compare ballistic evidence recovered at crime scenes, it cannot lead investigators directly to a specific firearm that produced the ballistic fingerprint, unless that firearm is recovered.

On October 13, 2007, California Governor Arnold Schwarzenegger signed into law the 'Crime Gun Identification Act of 2007, "mandating manufacturer "microstamping" of all new models of semiautomatic handgun models sold in California starting in 2010. Numerous other states are also considering microstamping legislation.

Legislative History:

Assembly – Passed four times since 2008

Other Bills That Have Passed Multiple Committees

The following bills have passed multiple committees in the Assembly and have advanced to third reading.

Prohibit Large Capacity Ammunition Clips - A. 5866-A (Jeffries)

Current law allows large capacity clips to be sold and possessed if they were manufactured before 9/13/1994. However, experts and advocates agree that there is no way to discern when such a device was manufactured, and, thus, if its possession is lawful. This bill closes the loophole that allows for the sale of these high capacity devices. Too many people have died and been injured in violent shooting rampages in which perpetrators have used large ammunition clips to strike down innocents.

Legislative History:

Assembly – Advanced to Third Reading in 2011 and 2012

Background Checks for Employees of Gun Dealers – A3597 (Kavanagh)

Under current law, licensed firearms dealers are required to conduct criminal background checks through the DCJS on prospective purchasers of firearms. However, while the dealers themselves are required to be licensed, their employees, who have access to the firearms on a daily basis, are not required to undergo any type of pre-employment examination.

This legislation would correct this anomaly by requiring the DCJS to administer background checks of all new employees through the NICS. Since dealers routinely perform these checks multiple times a day for purchasers, the bill will not impose a meaningful new burden. However, it will help to ensure those ineligible to purchase firearms are not handling or selling them.

Legislative History:

Assembly – Advanced to Third Reading in each of the last four years