

THE SAFE ACT: ONE YEAR LATER

SAFE ACT

From Page A1

so. And county clerk's and sheriff's offices say they are still digging out from an avalanche of SAFE Act-generated paperwork.

The legislation, passed by the State Senate on Jan. 14, 2013, and the State Assembly on Jan. 15, was signed into law half an hour later by Cuomo.

Written in response to the Sandy Hook Elementary School shooting in Newtown, Connecticut, the legislation triggered a year of impassioned debate and active protest between supporters and opposition.

Despite the pushback, Cuomo has no plans to repeal the measure, which he considers one of his legislative highlights.

"The SAFE Act stops criminals and the dangerously mentally ill from buying guns," says the governor's report, "by requiring universal background checks on gun purchases, increasing penalties for illegal gun use and strengthening the state's ban on assault weapons and high-capacity magazines."

SAFE Act advocates like Leah Gunn Barrett, executive director of New Yorkers Against Gun Violence (NYAGV), believe Cuomo is headed in the right direction.

"We know that strong gun laws work," said Barrett. "New York's strong gun safety laws are a big reason why our state has the fourth lowest gun death rate in the nation, despite being one of the most populous states and hosting 80 million visitors per year."

Strong federal gun laws are also needed to further protect New Yorkers, Barrett said, adding that in 2012, 68 percent of traced crime guns in New York state originated from out of state — mostly from states with weak gun laws. In New York City, she said, it was 90 percent.

"Universal background checks like those in the NY SAFE Act, and making gun trafficking a felony, would go some way towards reducing the trafficking of illegal guns into New York's communities and would protect our citizens from gun violence," Barrett said.

She also argued that the NY SAFE Act "closes the private sale loophole" by requiring criminal background checks on all gun and ammunition sales, even between private individuals.

"This will protect New Yorkers by keeping guns and ammunition out of the hands of convicted felons, domestic abusers and potentially dangerous mental health patients and it toughens criminal penalties on those who use illegal guns," Barrett said, adding that from 1994 to 2009, the federal background check system has kept nearly two million criminals and other dangerous people from buying guns.

In January 2013, the SAFE Act redefined an assault weapon so that many popular AR-15s and several other rifles, pistols and shotguns can no longer be sold legally in New York. By April 15, 2014, an estimated one million residents who bought one previously will be required by law to register it.

But according to Ontario County Clerk Matthew Hoose, there had only been about 2,500 assault weapons registered by 2,000 individuals statewide as of the end of September 2013.

Hoose said the unofficial number had been shared during a conference call briefing of the SAFE Act Implementation Task Force in October 2013. Further numbers have not been made available since that time, he said.



Instructor Jim Kinsman works with student Tracy Maimone, who has taken lessons for safety and shooting at the Victor Rod and Gun Club. JACK HALEY/MESSENGER POST

For more information

-  **SAFE Act** — www.governor.ny.gov/nysafeact/gun-reform
-  **National Rifle Association** — www.nra.org
-  **New Yorkers Against Gun Violence** — <http://nyagv.org/>

Impact on law enforcement

Local law enforcement agencies charged with screening pistol permit applicants have endured an extended spike in activity in 2013.

"The largest impact is the increased workload from the enormous number of pistol permit applications that have been filed since the SAFE Act went into effect," said Ontario County Sheriff Philip Povero. "We've always done them, but the amount of work has increased — it's quite a burden."

Applications for licensing, first filed with the county clerk, come to the sheriff's office for a detailed background investigation, which includes local and state fingerprint checks, and mental health background check. Povero said upwards of 200 to 250 are "in process" at any given time.

Unfortunately, tighter legislation in New York will likely impact law-abiding citizens more than it will the criminals it targets, said Povero.

"People with criminal intent historically obtain weapons illegally from all parts of the country," Povero said.

One less tangible consequence of the legislation has Povero particularly concerned. The SAFE Act, he said, poses the potential for people without criminal backgrounds to develop a distrust of police.

"There are law-abiding citizens who believe that because of the law, that law enforcement officers will be coming to the door to take their weapons," said Povero. "And this is not the case."

On the upside, Povero applauded the SAFE Act's effort to enhance the protection of first responders, particularly police and firefighters.

"Anything we can do to protect our first responders, that doesn't infringe on the legal rights of ordinary citizens, is a good thing," he said.

Mainly, Povero said he and other law enforcement officers would welcome the chance to be part of a working solution.

"We've tried to extend the olive branch to the governor," said Povero. "If we could just talk about this together, we're really trying to say — could you take some of this into consideration?"



New York Gov. Andrew Cuomo signs the SAFE Act last year at Rochester City Hall. Despite pushback, Cuomo has no plans to repeal the measure, which he considers one of his legislative highlights. SETH BINNIX/MESSENGER POST MEDIA

Keeping the books

Ontario County Clerk Hoose said there has been no rush on the part of gun owners to register assault firearms with State Police. In fact, there have been no such registration cards picked up from his office since January 2013.

But pistol permit holders are another story — they've been flocking to the clerk's office to file "opt out" forms, which keep permit holder information from being made public.

"The 'opt out' forms came out Feb. 15, and by Feb. 28 we had taken in 917 forms," Hoose said. In the early weeks his office received about 100 opt out forms a day, and had lines out the door. Those numbers continued through mid-May, and have now tapered off into single digits.

Hoose said pistol owners are opting out of the public registry because they fear "unwarranted harassment upon disclosure."

Opt out forms aside, there's been an uptick in pistol permit applications in general, Hoose said, even from people who may choose not to own a weapon at this time. Some may fear, he speculated, that the option may not be open to them in the future in New York State.

In any case, said Hoose, the workload has mushroomed. Hoose said prior to the SAFE Act, one full-time employee would devote one-third of her time to processing pistol permits. Now, between pistol permits and opt-out forms, the job has tripled in size and now requires three employees.

Another two- to three-month increase in workload is ahead when recertification of pistol permits begins, Hoose said. Under the SAFE Act, permits will have to be

renewed every five years, with everyone statewide recertifying by January 2018.

"We're anticipating a great deal of questions," said Hoose. "Even though the State Police are going to be administer this, we are the front line for questions and concerns."

NYAGV's Leah Barrett said the five-year recertification cycle will give law enforcement the ability to spot criminal activity that would prohibit a license holder from continuing to own a firearm, citing the 2009 mass shooting in Binghamton as an example.

"The shooter had a lifetime firearms permit, therefore law enforcement did not learn of violent behavior that he had engaged in that would have disqualified him from having the permit," she said.

For Hoose, the privacy of permit holders should be a greater priority. If he could change anything about the SAFE Act, it would be to allow pistol permit holders to keep their personal information from becoming public without having to submit a special request. And he'd like to see the same rules apply to both the County Clerk's office and the New York State Police.

"I don't feel it's right for information to be confidential at one level of government and public at another level," said Hoose. "If the State Police are exempt from releasing this information, the county should be exempt as well."

Hoose said public servants have had a rough ride in 2013, in part because they haven't been adequately equipped to answer the public's SAFE Act questions.

"It's been frustrating, to say the least," said Hoose. "Of my 62 colleagues throughout the state, I'm probably one

of the most knowledgeable simply because I've been on the task force for the implementation of the SAFE Act. I try to keep as informed as possible — I imagine it's very frustrating to be out there without information and still try to answer the public's questions."

Recreational shooters

Farmington resident Jim Kinsman, a certified instructor for basic pistol, home firearms safety and personal defense, said the legislation was neither well thought out nor well worded.

"The biggest thing is the mass confusion it's caused among gun owners and retailers," said Kinsman. "So many unnecessary regulations are very frustrating to recreational shooters."

For example, Kinsman said, to avoid registering their AR15 rifles, some people are switching out the thumbhole or adjustable stock to a fixed stock, "and suddenly it's not an assault rifle."

"There are ways to make certain guns New York State compliant so they don't have to be registered," said Kinsman, "but that doesn't change the function of the firearm."

Further, he said, criminals aren't going to abide by the law.

Kinsman said SAFE Act opponents are doing the right thing to keep pushing for repeal or changes.

"Just keeping it out there in the forefront is important," said Kinsman. "It shows the ongoing discontent. 'We hope it does some good.'"

Canandaigua resident David Hudson is a recreational shooter and a New York State Department of Environmental Conservation hunter safety instructor. Like many, he's frustrated by new laws that are passed by politicians who "have no real

About the SAFE Act

The New York Secure Ammunition and Firearms Enforcement Act of 2013, commonly known as the NY SAFE Act, was passed by the New York State Legislature on January 15, 2013, and was signed into law by Governor of New York Andrew Cuomo on the same day. The legislation was written in response to the Sandy Hook Elementary School shooting in Newtown, Conn.

- It bans the possession of any high-capacity magazines regardless of when they were made or sold. The maximum capacity for all magazines is 10 rounds.

- It requires ammunition dealers to do background checks similar to those for gun buyers, effective Jan. 15, 2014. Dealers are required to report all sales, including amounts, to the state.

- It requires background checks for all gun sales, including by private sellers.

- It requires that stolen guns be reported within 24 hours.

- It broadens definition of an assault weapon. The sale or transfer of assault weapons is banned within the state, although sales out of state are permitted. Possession of assault weapons are allowed only if they were possessed at the time that the law was passed, and must be registered with the state within one year.

- It bans the Internet sale of assault weapons.

- It requires the creation of a registry of assault weapons, which began on April 15, 2013, and must be completed before April 15, 2014.

- It requires that guns are safely stored away from any household member who has been convicted of a felony or domestic violence crime, has been involuntarily committed, or is currently under an order of protection.

- It requires designated mental health professionals who believe a mental health patient made a credible threat of harming others to report the threat.

- It increases sentences for gun crimes, including upgrading the offense for taking a gun on school property from a misdemeanor to a felony.

- It increases penalties for shooting first responders (Webster provision) to life in prison without parole.

- It limits the state records law to protect handgun owners from being identified publicly.

- It requires pistol permit holders or owners of registered assault weapons to have them renewed at least every five years.

knowledge of firearms."

"Banning a gun because it looks menacing is not a legitimate reason," said Hudson. "Semi-automatic hunting pistols, rifles and shotguns have been around for over 100 years. Many fire the same ammo, at the same rate of fire, as the ones being banned."

Hudson was also frustrated with bans on Internet sales of ammunition, which though more affordable, will no longer be legal for individual customers after Jan. 15. The pending legal paperwork will discourage many from buying in New York, he said, so many will drive to Pennsylvania to buy in bulk.

In a perfect world, Hudson would like to see Cuomo hit the reset button on the SAFE Act and start over. This time "with input from the law-abiding folks in New York, not the way he did this — by bypassing the normal three days of public input."

Kinsman said the answer to increased public safety is not more legislation.

"There are plenty of laws already on the books," he said, "If they were better enforced, that would negate the need for the SAFE Act."

— Includes reporting by Associated Press and NewsIONBC