



Federation of Dutchess County Fish & Game
Clubs, Inc.
Post Office Box 3201
Poughkeepsie, New York 12603

Federation–November 2016- Board & General Membership Meetings

Legislative Report (Read at regular meeting & placed on Internet site & sent to member clubs & interested parties)

Sidebar: New Yorkers Against Gun Violence tried to pass the following ordinance in Poughkeepsie but were not able to, so now they are targeting Beacon and Phillipstown. Their proposal is as follows: “no person shall store a firearm, rifle, shotgun or airgun in a dwelling in the city unless said firearm, rifle, shotgun or airgun is completely enclosed in a nontransparent lock carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired, this requirement shall not apply to a rifle, shotgun or license firearm carried on the body of the owner or within such close proximity of the owner and the owner can retrieve it as quickly and easily as if it were carried on the owner’s body.”

Although we should not be political, we do need to voice our opinion when it affects our Second Amendment rights. It appears, that this is only one step as this anti-gun group proceeds to slowly strip away at our law-abiding, back-ground checked, hunter educated, safety trained, law enforcement trained, military trained, legally protected, firearm owner’s rights. I believe most everybody would agree that we safely control our legally owned firearms and ammunition in a safe manner. New York State certainly has enough laws on the books which address firearm’s control. As we all are aware, criminals and individuals with mental health concerns are the two situations which need to be addressed; there certainly are no local statistics which indicate that we have a very high rate of crime by law-abiding citizens. As law-abiding citizens, we certainly need to protect our Second Amendment rights as well protect our self and others. We need to explain this to this anti-gun group that they have no local concerns; perhaps they have a hidden agenda?

Legislative Report (Posted, read at general meeting & on Internet Site):

Tracking a State Bill: 518-455-7545 or Hotline=800-342-9860/Monday-Friday-9am-6pm.

Note:

Bills are tracked when Legislature is in session from January through June of each year. In the second year of the two-year session, New York State legislators are elected to a two-year term. On the first day of the new session, most of the previous year’s bills, which remain active at the end of the year, will automatically be carried into the new session, with some exceptions: bills not carried over will include (but are not limited to) those that were Chaptered, vetoed, had the enacting clause stricken, or the sponsor is no longer in the Legislature. A bill will retain its bill number assigned to it in the first year of the two-year session. If a bill only passed its own house last year, it must repass that house again in the new session, before it can advance to the other

house. In general, all active bills will be referred to the original committee, with the exception of Assembly bills which passed only the Assembly last year; these bills will be reported to the Assembly's third reading calendar*. *Exception: if an Assembly bill had a "Home Rule Request", that bill will be recommitted, even if it passed the Assembly. (Legislative Rules.)

Bills of Interest (in part):

Club Bill: A06534/ S 04498- "authorizes a shooting preserve to sell ammunition for exclusive use on the preserves; provides that such shooting preserve is not subject to requirement of seller of ammunition." Note: This bill written and requested for Club by this writer.

A10505/S 92: Eliminates the requirement that hunters wear back tags during hunting season in the state; amended & recommitted to DEC. Note-Bill initiated by this writer as Northern Zone and parts of Catskills do not require; poor law enforcement tool, ruins clothes, can lose while hunting and we are the only state that uses this method.

Transfer of Funds:

1-**A4917B/S3517B:** relates to transfers from the environmental protection fund to the general fund; calls for repayment of funds borrowed from the EPF; referred to environmental conservation.

Enforcement:

1-**A5802A/S1087B:** grants private citizens broad authorization to commence civil judicial actions under certain titles of the environmental conservation law; 20-year-old bill. Would allow anyone to initiate enforcement action; 4/25/16 amend and recommit to environmental conservation.

Land owner liability:

1-**A1846/S3101:** Relates to the liability of landowners who permit recreational uses of their land (protects land owners); referred to judiciary.

Firearms:

1-**A 2651/S 1476:** relates to repealing the New York SAFE ACT of 2013; referred to codes.

2-**A 3943/S 1193:** repeals chapter 1 of the laws of 2013, amending the criminal procedure Law and other laws relating to suspension and revocation of firearms licenses; private sale or disposal of firearms, rifles or shotguns; referred to codes.

3-**A 5629A/S 2613 A:** repeals provisions of law relating to sellers of ammunition; referred to codes.

4- **A 5864/S2683:** requires owners of firearms to obtain liability insurance; referred to investigations and government operations.

5-**A 6192A/S1113 A:** requires semiautomatic pistols manufactured or delivered to any licensed dealer in this state to be capable of micro-stamping ammunition; amend and recommit to codes.

6-**A 6486:** requires proof of liability insurance prior to issuing a license to carry a firearm; referred to codes.

7-**A8196/S5837**: relates to firearms; repeals several sections of SAFE Act, transfers pistol license functions to the DCJS; **referred to codes.**

8-**A5864/S 2683**: requires owners of firearms to obtain liability insurance; **referred to investigations and government operations.**

9-**A 10404S 4227**: relates to the definition of an assault weapon. Eliminates prohibition of thumb hole stocks on semi-automatic rifles and shotguns; **referred to codes.**

10-**A8053/S3373**: Authorizes the transfer of certain weapons from an estate to an immediate member of the decedent's family. Permits transfer of "assault" weapon to family member of decedent; **referred to codes.**

10-**A214**: safe storage of rifles, shotguns, and firearms; **referred to codes.**

11-**A2040**-requires weapons and ammunition to be secured when being transported and imposes a fine of at least \$1000 for violation; **referred to transportation.**

12-**S3719**: requires the safe storage of all guns, either in a safe or with a locking device, and provides penalties for simple and complex violations; requires notices; **referred to codes.**

Hunting:

1-**A3855/S 2634**: makes contests and competitions to take wildlife unlawful; **referred to conservation.**

2-**A5493/S6221**: provides that the open season for hunting coyotes shall be all year long in certain instances; **referred to environmental conservation.**

3-**A802**: moratorium on the prohibition of feeding white tailed deer in Sullivan County; **referred to environmental conservation.**

4-**A1657**: decreases the amount of alcohol in a person's system necessary to be considered to be intoxicated while hunting (makes level .8% the same as DWI and BWI); **referred to rules.**

Knives:

1-**A 4697/S3455**: prohibits the manufacture, transport, shipment or possession of an undetectable knife; **referred to codes.**

2-**A9042-A/S6483A**-Relates to the definitions of a switchblade and a gravity knife; **advanced to third reading.**

Licensing:

1-**A 1918/S 2951**: protect certain information on hunting, fishing and trapping license and permit applications from disclosure; currently DEC refuses FOIL requests and has not been challenged; **referred to environmental conservation.**

2-**A7396** eliminates sporting license fees for honorably discharged veterans; **referred to environmental conservation.**

3-**A7082/S4176**: Relates to the cost of various hunting, fishing and trapping licenses; reduces age for senior licenses to 65; **referred to environmental conservation.**

Tax:

1-**A7234/S1991**: grants a \$100,000 real property tax exemption to conservation clubs and rod and gun clubs owning certain land having an assessed value of \$500,000 or less; **referred to real property taxation.**

Marine:

1-A2023/S1872: prohibits the taking of striped bass during the period of January 1 to April 15; **referred to environmental conservation.**

State Information:

According to the New York outdoor news:... New York's grouse population has been in general decline in recent years, a downturn attributed primarily to habitat loss, predation and poor nesting and brooding-rearing conditions. But another potential factor has surfaced: the West Nile virus. Extensive testing in neighboring Pennsylvania, as well as tests on dead grouse in New York, showed the presence of West Nile in a percentage of birds. And since the virus is deadly to about 80% of birds that contracted, West Nile is almost assuredly impacting grouse numbers to some extent in the Northeast. The mosquito borne illness has been detected in enough grouse to indicate it's a factor in bird totality" New York State the DEC continues to monitor the situation and to formulate various options to resolve the situation, i.e. better habitat, change the hunting regulations, etc.

According to the New York State Psychiatric Association (NYSPA): "The Secure Ammunition and Firearms Security(SAFE) Act, signed into law, is a gun-control statute that substantially strengthens the rules governing access to firearms and ammunition. The law also imposes a new reporting requirement on mental health professionals, including physicians, psychologists, registered nurses and licensed clinical social workers. The SAFE Act amends the Mental Hygiene Law(MHL) by adding a new paragraph 9.46, which requires that mental health professionals who are currently providing treatment services to an individual make a report, if they conclude, using reasonable professional judgment, that the individual is likely to engage in conduct that would result in serious harm to self or others. The new reporting requirement went into effect on March 16, 2013 and applies to all conduct that would result in serious harm to self or others, regardless of whether a legal firearm is implicated. Once the report is made, a determination will be made if the subject of the report, i.e. the patient, has a legal gun, has applied for a gun permit or is prohibited from owning a gun under applicable state or federal law. **However, the SAFE Act reporting requirement is intended to address only legal gun ownership and does not address notification to law enforcement or to a potential victim to warn of a risk of injury to the patient or others.**

Following enactment of the SAFE Act, NYSPA has expressed objections to the language of the reporting requirement for two reasons. First, they are concerned that the breach of confidentiality required in connection with the report would not be warranted because the statute fails to require the presence of imminence in addition to the threat of serious harm. State and federal law as well as generally accepted psychiatric practice recognizes that a breach of patient confidentiality may be necessary to prevent harm to self or others, but only when the risk posed is both serious and imminent.

Second, NYSPA is concerned that the reporting requirements conflicts with HIPAA. Under HIPAA, a disclosure to mitigate a threat to health or safety may be made without patient authorization only if the threat is both serious and eminent and is made to law enforcement or to a potential target, elements that are missing from the SAFE Act. The SAFE Act reporting

requirement also fails to meet the HIPAA required by law exception, because it is not a fully compulsory mandate. To express its concerns, NYSPA filed a complaint with the Office for Civil Rights (OCR), a division of the U.S. Department of Health and Human Services that is charged with investigating possible HIPAA violations. As NYSPA pointed out in its complaint, permitting MHL paragraph 9.46 to stand as written would place New York providers in a situation where compliance with the state statute might constitute a violation of the federal statute.

Following discussion with OMH staff, it has become clear that the intent of the SAFE Act reporting requirement is solely to limit access to legal firearms and not to protect individuals from imminent risk of harm to self or others. NYSPA awaits a response from OCR on the legal issues raised in their complaint. However, in the interim, they provided members with the following guidance on the reporting requirement in force:

If a psychiatrist determines, using professional medical judgment, that a patient poses a serious and eminent risk to self or others that warrants a warning to law enforcement or to a potential target, then the psychiatrist should also submit a SAFE Act report. Therefore, in this situation, the following steps are recommended:

- 1- contact law enforcement and, where appropriate, a hospital's emergency department, to have the patient brought to the hospital for evaluation.
- 2- notify a potential victim, where applicable
- 3- submit a report to the online integrated SAFE Act Reporting Site (ISARS)

In the past, if a psychiatrist knew that the patient was about to be involuntarily hospitalized, the psychiatrist may have determined that there was no immediate duty to warn because the patient would be maintained in a secure environment. However, that reasoning does not necessarily apply with respect to the SAFE Act and a report may be required even in connection with patients about to be admitted to an inpatient facility. As emphasized by OMH, involuntary hospitalization does not violate the need to submit a SAFE Act report because the true aim of the statute is not to protect the public from imminent harm but to reduce access to legal firearms.

The greatest impact of the reporting requirement may prove to be in the inpatient treatment setting. In this case, the standard for involuntary hospitalization under MHL paragraph 9.39 and MHL paragraph 9.45 are substantially similar to the likely to result in serious harm standard used in the SAFE Act. As a result, if a patient meets the standard for involuntary hospitalization under MHL paragraph 9.39 or MHL paragraph 9.45, the patient would meet the standard for MHL paragraph 9.46 report. Although there is discernible distinction between the OMH involuntary hospitalization standard and the generally accepted standard for making a warning in the event of serious and imminent danger, it is reasonable to conclude that anyone involuntarily hospitalized under MHL paragraph 9.45 or MHL paragraph 9.39 also meets the standard for reporting under the SAFE Act.

In addition, a person who is admitted on a voluntary basis may nevertheless meet the MHL paragraph 9.46 standard and a SAFE Act report would be required. On the other hand, the fact that a patient has been hospitalized, whether voluntarily, involuntarily or informal, does not itself trigger an obligation to contact law enforcement or an endangered individual.

Finally, no SAFE Act reporting would necessarily be required when a patient was involuntarily hospitalized based upon the MHL paragraph 9.27 standard of in need of involuntary care and treatment, i.e., a patient whose judgment is so impaired that he is unstable to understand the

need for such care and treatment. Regarding discharge, it is concluded that there is no need to file a SAFE Act report upon discharge because an individual should not, at discharge, present a risk to harm to self and others.

Other considerations are as follows:

1-Although OMH has indicated that no report would be necessary in connection with an otherwise reportable danger when such danger is the result of alcoholism, substance abuse or pure criminal behavior, substance induced mental conditions, such as psychosis or delirium, may indeed be reportable. Also be aware that these types of situations present fine distinctions and determining the precise source of the dangerousness may be difficult under the circumstances.

2-The decision to report or not to report, when made reasonably and in good faith, will not subject the mental health professional to any civil or criminal liability.

3-Reporting is not required if the mental health professional believes, in the exercise of reasonable professional judgment, that doing so would endanger the mental health professional or increase the danger to a potential victim or victims.

4-Individuals who are the subject of a report will not have access to the report or to the reporter's name or contact information, including through FOIL requests. However, patients may learn that a report was made if they request a copy of their medical record. Mental health professionals may, but are not required to, inform the patient of the decision to file a SAFE Act report.

5-Once a report is made, the ISARS system will generate a unique Confirmation Number. Once logged off the system, this Confirmation Number will no longer be available, so it is important to make a note of the Confirmation Number and the patient's chart or print a screenshot to add to the file.

6-In the event a report is required, psychiatrists are advised to file a complete report and provide all information requested.

7-Psychiatrists are advised to consult with legal counsel in the event a reporting situation arises and further guidance is required."

According to the New York Outdoor News:

"The NYS DEC has adopted regulations that will allow individuals with criminal backgrounds to sell sporting licenses and in the process, have access to personal and financial information of hunters, anglers and trappers..... The DEC developed a list of factors to be taken into consideration when determining whether an individual with a criminal record should be allowed to sell sporting licenses. Among them: the specific duties and responsibilities necessarily related to the license issuing officer; the bearing, if any, the criminal offense or offenses to which the person was previously convicted will have on his or her fitness or ability to perform one or more of such duties or responsibilities; the time which has lapsed since the occurrence of the criminal offense or offenses; the age of the person at the time of occurrence of the criminal offense or offenses; the seriousness of the offense or offenses; any information produced by the person, or produces on their behalf, in regard to their rehabilitation and good conduct; and the legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public..... DEC further states: the department feels that through the proper review of applications for license issuing

officers, incorporating the statutory factors, and after a balancing of the factors set out in the Corrections Law, the department can appoint an otherwise qualified applicant with a prior criminal conviction or convictions is a license issuing officer, ensuring that appointing the individual as a license issuing officer would not involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public and, ensure the integrity of this license sales system.”

Poughkeepsie Journal reports: “67% of the guns seized in Dutchess County between 2010 and 2015 came from other states, the report from Atty. Gen. Eric Schneiderman found. Statewide, 74% of guns used in crimes in New York originated from other states, he said. The highest was in New York City, where 87% guns recovered came from other states. While New York has strong gun-control laws, the flow of guns from other states has hampered New York’s ability to control gun crime, Schneiderman said. The data makes one thing abundantly clear, according to Schneiderman, New York’s strong gun laws are being undermined at every turn by lax laws in other states.”

Federal Information:

NRA reports: “Earlier this summer, ATF released an Explosives Industry Newsletter that changed the agency’s treatment of nitrocellulose, the primary component in smokeless powders used in modern ammunition. This change had the potential to seriously disrupt ammunition supply in the United States because it changed the long-standing ATF policy that exempted properly wetted nitrocellulose from treatment as an explosive under federal law. NRA and industry raise these concerns to ATF and any change in ATF treatment of nitrocellulose is now officially delayed. In an addendum to the earlier newspaper, ATF announced that it will conduct further industry outreach concerning wetted nitrocellulose. In the interim, previously authorized industry practices concerning wetted nitrocellulose will not be affected. While the addendum doesn’t indicate that ATF has permanently abandoned this change to nitrocellulose regulation, smokeless powder manufacturers will be permitted to continue normal operation, at least for the time being. NRA will continue to work to ensure that any future change to nitrocellulose regulation will not affect ammunition supply.”

Legislative resources:

New York Senate: www.nysenate.gov

New York State Assembly: www.assembly.state.ny.us/mem/

New York Senator=Sue Serino-41st. District

Serino@nysenate.gov

LOB Room 617, Albany, N.Y. 12247

Assemblyman Kieran Lalor-105th. District-LaLork@assembly.state.ny.us

US Congressman Chris Gibson – 19th District – Gibson.house.gov

Assembly woman Didi Barrett – 106th. District – Barrett D@assembly.state.ny.us

New York Senator – 40th District – Terrance Murphy – Murphy@NYSenate.gov-LOB Room 817, Albany,N.Y. 12247 – 518-455 – 3111

US Congressman Sean Patrick Maloney – 18th District – Seanmaloney.house.gov

US Senator Kristen Gillibrand– www.gillibrand.senate.gov/contact/

US Senator Charles Schumer – www.Schumer.senate.gov/contact Chuck.CFM

Gov. A. Cuomo – www.governor.NY.gov

Important Contact Groups:

Shooters Committee on Political Action(SCOPE):www.scopeny.org

SCOPE legislative reports are available at this website

SCOPE INC, Attention Legal Defense Fund Project (for donations)

P.O. Box 12711

Rochester, N.Y.14612

New York Firearms: www.nyfirearms.com

Second Amendment Foundation: www.saf.org

National Rifle Association: www.homenra.org

National Shooting Sports Foundation: www.nssf.org

National Association for Gun Rights: www.nationalgunrights.org

Firearms Policy Coalition: www.firearmspolicy.org

Gun Owners of America: www.gunownersofamerica.org

For Dutchess County Federation of Fish and Game Clubs monthly report go to:
www.dutchessfishandgame.org

New York Safe Act: www.governor.ny.gov/nysafeact/gun-reform

New York State police Field Guide to the New York State SAFE Act:
www.nypdcea.org/pdfs/nysp_safe_act_field_guide

New York State Rifle and Pistol Association (NRA Affiliate): www.nysrpa.org

Note: NYSR&PA Legislative Report is available at this website which follows all important bills.

New York State Conservation Council – look up bills –www.nyscc.com

Submitted by:

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Cc: Secretary