

Chapter 193, FIREARMS AND AMMUNITION

[HISTORY: Adopted by the Common Council of the City of Albany: Art. I, 7-18-1983 by L.L. No. 2-1983 as Ch. XV, Art. III, of the 1983 Code; Art. II, 7-18-1983 by L.L. No. 2-1983 as Ch. VII, Art. II, Div. 6, of the 1983 Code; Art. III, 5-15-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Departments and commissions -- See Ch. 42.

ARTICLE I, Carrying of Loaded Firearms [Adopted 7-18-1983 by L.L. No. 2-1983 as Ch. XV, Art. III, of the 1983 Code]

§ 193-1. Unlawful to carry loaded firearms; exception. [Amended 11-18-1991]

Any person, other than a peace officer, who shall in any public street, highway or place within the City of Albany have upon his person or carry any loaded pistol, revolver or other firearm without having been authorized as provided by law to carry the same shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred fifty dollars (\$150.) or by imprisonment in a penitentiary or county jail for not more than one hundred fifty (150) days, or by both.

§ 193-2. Commissioner of Police authorized to issue permit to carry loaded firearms.

Any person, except as provided in this Article, who has occasion to carry a loaded revolver, pistol or firearm for his protection may apply to the Commissioner of Police, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a permit allowing him to carry such loaded firearm for such period of time as he may deem proper. Any nonresident who does business in the City of Albany and has occasion to carry a loaded pistol, revolver or firearm while in said city must make application for permission to do so, to the Commissioner of Police, in the same manner as is required of residents of said city and shall be subject to the same conditions and restrictions.

§ 193-3. Concealed firearms; at time of arrest.

If, at the time of arrest, a loaded pistol, revolver or firearm of any description shall be found concealed on the person of the one arrested, the officer making the arrest shall state such fact to the Magistrate before whom the prisoner is brought and shall make a separate complaint against such prisoner for violation of the provisions of this Article.

§ 193-4. Commissioner of Police authorized to revoke permits.

The Commissioner of Police is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul or revoke any permission given under this Article.

Every person to whom permit shall be granted as above provided shall pay therefor the sum of two dollars and fifty cents (\$2.50), which shall be applied in aid of the Police Pension Fund; and a return, in detail, shall be made monthly by the Commissioner of Police to the Comptroller of the city of the amount so received and credited. All persons to whom such permission shall be granted are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of loaded

pistols, revolvers, or firearms, carried under the permission obtained as provided in this Article.

§ 193-5. Repealer.

All ordinances or parts of ordinances of the City of Albany, inconsistent with the provisions of this Article are hereby repealed.

§ 193-6. Purpose.

The Common Council hereby finds that the storage, possession and display of firearms and the storage, possession and display of ammunition in the City of Albany require the regulation thereof in the public interest, convenience and necessity.

§ 193-7. Definitions.

Unless otherwise expressly stated, whenever used in this Article, the following words shall have the meanings given to them by this section. When used herein:

AMMUNITION -- Any projectile commonly known as a "bullet" or "shell."

FIREARM -- Any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, and shall include any weapon which is otherwise capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

PERSON -- Any person, firm, partnership, association, corporation, company or organization of any kind.

§ 193-8. Storage; Police Chief; Fire Chief.

Firearms and ammunition for sale shall be kept secured at all times when the place in which they are held for sale is not open for business. The manner in which the firearms and ammunition are to be secured must be approved by both the Chief of Police and the Chief of the Fire Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.

§ 193-9. Exceptions.

The regulations provided for herein shall not apply to personal possession, use or ownership of firearms or ammunition therefor.

§ 193-10. Report of theft or loss to Police Department.

Any theft or loss of ammunition or firearms from a storage vault or otherwise shall be reported immediately to the Police Department of the City of Albany.

§ 193-11. Declaration of state of emergency by Mayor.

In the event of disaster, riots, catastrophe, insurrection, war or acts of war and at which time the Mayor of the City of Albany or the Acting Mayor shall declare a state of emergency, then and in that event he may order such additional security measures as he may deem advisable.

§ 193-12. Penalties for offenses.

Any person who shall violate or shall neglect or refuse to comply with this Article or any provisions thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than one hundred dollars (\$100.) or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense and be subject to punishment as such.

ARTICLE III, Firearms [Adopted 5-15-1989]

§ 193-13. Findings and declaration.

The Common Council of the City of Albany finds and declares that the proliferation and use of assault weapons pose and present a threat to the health, safety, welfare and security to the citizens of Albany.

§ 193-14. Scope and intent.

As used herein, "assault weapon" generally means a firearm of such a nature and with such a high rate of fire and/or capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. While it is the intent, then, of this legislation to restrict the use and possession of assault weapons, it is not the intent of the Common Council to place restrictions on the use of those firearms which are primarily designed and intended for hunting, target practice or other legitimate sports or recreational activities.

§ 193-15. Assault weapons.

A. As used herein, "assault weapon" includes any of the following or their copies:

(1) Pistols:

Bushmaster Firearms Company auto pistol
Calico Model 100-P auto pistol
Federal Engineering Corporation XP 450, XP 900
Holmes Firearms MP-83, MP-22 assault pistols
Intratec Tec-9 Auto, Tec-9M, Scorpion auto pistols
Israeli Military Industries UZI pistol
Iver Johnson Enforcer Model 300 auto
Ingram or S.W.D. MAC 10, MAC 11
Spectre double-action auto pistol
Ruger Mini 14

(2) Rifles and shotguns by manufacturers in the United States:

Auto-Ordinance Corporation Thompson M1, Mix, 27 A-1
Thompson A-1 Thompson Deluxe, 1927 A5
Colt AR-15A2-Delta H-Bar, AR-15A2 H-Bar
Federal Engineering Corporation XC-900, XC-450 auto carbines
Springfield Armory Inc. BM-59, SAR-48
S.W.D. Street Sweeper shotgun
Weaver Arms Corporation nighthawk

(3) Rifles and shotguns by manufacturers outside the United States:

Avtomat Kalashnikovs manufactured or imported by American Arms, Bushmaster Firearms, Daewoo, Mitchell, Norinco and Poly Technologies

Beretta AR-70 Sporter rifle
Fabrique National FN, FNC rifle
Franchi LAW 12 auto, SPAS 12 pump/auto shotguns
Heckler and Koch HK 91, 93, 94 rifles
Israeli Military Industries Galil Rifles, UZI carbines
Steyr Daimler-Pusch A.U.G. autoloading rifle
Striker 12 shotgun
Valmet M-76 standard rifle, M78 semi-auto

(4) Any other weapon to be subsequently designated by law.

B. A copy of any of the weapons listed in Subsection A(1), (2) and (3) of this section shall include any other model by the same manufacturer with the same action design having slight modifications or enhancements, provided that such weapon as modified or enhanced employs only ammunition of more than .22 caliber rimfire; any weapon with an action design identical or nearly identical to any of the listed weapons which has been designed from, renamed, renumbered or patterned after any of the listed weapons regardless of the manufacturer or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire; or any weapon which has been manufactured and sold by another company under a licensing agreement to manufacture or sell a weapon identical or nearly identical to any of the listed weapons regardless of the company or production or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire.

C. "Assault weapon" does not include weapons that do not use cartridges, manually operated bolt-action weapons, lever-action weapons, slide-action weapons, single-shot weapons, multiple-barrel weapons, revolving-cylinder weapons except shotguns, semiautomatic weapons that use exclusively a rotary Mannlicher-style magazine, any antique firearm as defined in Article 265 of the Penal Law or any assault weapon which has been modified either to render it permanently inoperable or permanently make it a device no longer defined as an assault weapon.

§ 193-16. Prohibition; penalty; registration of existing weapons.

A. Any person, firm or corporation who or which shall, on or after the effective date of this Article, manufacture, import, keep, offer or expose for sale, give, lend or possess any assault weapon in the City of Albany, except as provided for herein, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding one thousand dollars (\$1,000.) and/or to imprisonment not exceeding one (1) year.

B. Any individual who lawfully acquired and possessed an assault weapon, as defined herein, prior to the effective date of this Article shall register the firearm with the Chief of the Albany Police Department pursuant to the provisions of § 193-17 herein. The registration shall be made within ninety (90) days of the effective date hereof and shall contain a description of the firearm that identifies it uniquely, including all identification marks and the full name, address, date of birth and fingerprints of the owner, together with such other information as the Chief of Police may deem appropriate. Any change of address of the owner must be registered with the Department within ninety (90) days of the change. The Department may charge a fee for registration not to exceed the actual processing costs of the Department. Such registration shall allow the possession of the firearm on the registrant's property or for the uses specified in § 193-17.

C. On and after the date fixed herein for the registration of assault weapons, no such weapon possessed pursuant hereto shall be sold or transferred to anyone within the City of Albany other than at a licensed gun dealer as defined in the Penal Law. Any individual who obtains title to an assault weapon registered under this section by bequest or intestate succession must, within ninety (90) days, either render the weapon inoperable in accordance with § 193-15, apply for a license pursuant to § 193-17 herein, sell the weapon to a licensed gun dealer or remove the weapon from the city.

§ 193-17. Possession for competitive use; licensing and transportation.

A. A license for an assault weapon may be issued as provided in Subsection B to possess such weapon for the purpose of loading and firing the same while participating as a competitor in organized competitive matches or league competition under the auspices of or approval by a law enforcement agency or a nationally or state recognized organization that fosters proficiency in or promotes education about firearms or to possess such weapon for the purpose of loading and firing the same at a range located on premises owned and occupied by such agency or organization. Such license shall not permit use for any other purpose and shall not be transferable.

B. Application for such license as hereinbefore specified shall be made to the Chief of the Albany Police Department on forms prescribed by him for that purpose. Every person so licensed shall have such license on his or her person when engaged in such activity and while transporting such weapon to or from such competition or range.

C. All such weapons shall be transported in a case, together with a copy of the match program, match schedule or match registration. Where such person is transporting such weapon to or from a range, it shall be transported in a case. Magazines and ammunition for such weapon shall be carried and transported in a locked container separate from the weapon.

D. A licensed gun dealer, as defined in the Penal Law of the State of New York, who lawfully possessed an assault weapon prior to the effective date of this legislation or who gains possession thereof pursuant to this legislation may transport the weapon between dealers or out of the city, display it at any gun show licensed by a state or local governmental entity or sell it to a person licensed under this section. Any transporting allowed herein shall be accomplished as required in Subsection C.

§ 193-18. Applicability to police and military forces.

The provisions of this Article shall not apply to the sale to, purchase by or the use or possession of firearms by the Police Department, Sheriff's office, Marshal's office, corrections officers and the like or the military forces of this state while engaged in the discharge of their official duties or as otherwise permitted by regulation or law.

§ 193-19. Severability.

If any provisions of this Article or the application thereof to any person or circumstance is held unenforceable or invalid, in whole or in part, by any court of competent jurisdiction, such holding of unenforceability or invalidity shall in no way affect or impair any other provision of this Article or the application of any such provision to any other person or circumstance.

§ 193-20. When effective.

This Article shall take effect immediately upon final passage, publication and signing as required by law.