



New York

Summary of State Firearms Law

Last Updated October 21, 2011

Overview

In its publication [Gun Laws Matter: A Comparison of State Firearms Laws and Statistics](#), LCAV ranked each state based on a review of state laws in 25 different firearms-related policy areas. New York ranked 8th out of 50 – having enacted some of the strongest gun violence prevention laws in the country. Among other things, New York:

- Requires all firearm sales at a [gun show](#) to be processed through a licensed dealer, who conducts a background check;
- Requires firearm dealers to obtain a [state license](#);
- Bans most [assault weapons](#) and [large capacity ammunition magazines](#);
- Requires anyone purchasing or possessing a [handgun to first obtain a license](#), after a background check, and requires the license to specify all the handguns owned by the license holder;
- Requires firearm owners to [report lost or stolen firearms](#) to law enforcement; and
- Prohibits the manufacture and assembly of certain [“unsafe handguns”](#).

However, New York does **not**:

- Conduct [its own background checks](#) for firearm sales, but instead relies on the FBI;
- Require a [background check prior to the private sale](#) of a firearm that does not occur at a gun show (although a [handgun license](#) may be required);
- Impose a [waiting period](#) prior to the purchase of a firearm (although it may take up to six months to obtain a [license to purchase a handgun](#)); or
- Significantly regulate [ammunition sales](#).

Local governments in New York [have authority](#) to regulate firearms or ammunition, and local law enforcement has discretion regarding whether to issue [a concealed handgun permit](#).

New York Statistics

Gun Deaths

New York has the fifth lowest number of gun deaths per capita. In 2008, 963 people died from firearm-related injuries in New York.¹

Crime Guns

Mayors Against Illegal Guns recently developed web pages detailing [data about each state's crime gun imports and exports](#). Guns originally purchased in [New York](#) are recovered after being used in crimes in other states at the second lowest rate per capita among the states. In fact, New York exports crime guns at a rate less than one-sixth the national average. New York imports crime guns from other states at seven times the rate it exports such guns.²

Number of Federally Licensed Firearms Dealers

There are 1,631 federally licensed firearms dealers and pawnbrokers in New York.³

¹ National Center for Injury Prevention and Control, U.S. Centers for Disease Control and Prevention, *WISQARS Fatal Injury Reports, 1999-2008, for National, Regional, and States*, at http://webappa.cdc.gov/sasweb/ncipc/mortrate10_us.html.

² Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* (September 2010), at <http://www.tracetheguns.org/report.pdf>.

³ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *List of Federal Firearms Licensees* (October 2011), at <http://www.atf.gov/about/foia/ffl-list.html>.

New York “Right to Bear Arms”

New York’s constitution provides a right to bear arms, but courts have agreed that the right conferred by this provision is co-extensive with the right conferred by the [Second Amendment to the United States Constitution](#). See [LCAV’s State Right to Bear Arms Provisions](#) for more-detailed information.

Local Authority to Regulate Firearms in New York

New York has not expressly preempted local firearms or ammunition ordinances, nor has the legislature been found to have impliedly preempted the field of firearms regulation. See [LCAV's State Preemption/Local Authority to Regulate Firearms summary](#) for further information.

State Firearms Policies in New York

Please note that many firearm-related laws have exceptions for military and law enforcement personnel.

Persons Prohibited from Firearm Possession

New York Prohibited Purchasers Generally

See [Regulating Guns in America: Prohibited Purchasers](#) for a comprehensive discussion of this issue.

[Federal law prohibits certain persons from purchasing or possessing firearms](#), such as felons, certain domestic abusers, and certain people with a history of mental illness.

New York law prohibits any person who is not a citizen of the United States from possessing any firearm.⁴ It also prohibits an individual from possessing a long gun if he or she:

- Has been certified not suitable to possess a long gun by the director or physician in charge of a hospital or institution for mental illness; or
- Has been convicted of a felony or "serious offense," defined to include:
 - Illegally using, carrying or possessing a handgun or other dangerous weapon;
 - Making or possessing burglar's instruments;
 - Buying or receiving stolen property;
 - Unlawful entry into a building;
 - Aiding escape from prison;
 - Certain kinds of disorderly conduct;
 - Certain drug offenses or crimes involving sodomy or rape;
 - Child endangerment;
 - Certain crimes permitting or promoting prostitution; or
 - Certain kinds of stalking.⁵

New York law also provides that, subject to certain limited exceptions, no person shall be issued a license to carry, possess or dispose of a firearm (defined to include any handgun, short-barreled rifle or shotgun, or assault weapon) unless he or she:

- Is twenty one-years of age or older (except if he or she has been honorably discharged from the U.S. military or New York national guard, in which case the age limit does not apply);

⁴ N.Y. Penal Law § 265.01.

⁵ N.Y. Penal Law §§ 265.00(17), 265.01.

- Is of good moral character;
- Has not been convicted anywhere of a felony or a serious offense (see above list of crimes deemed "serious offenses");
- Has not suffered from any mental illness or been confined to any hospital or institution, public or private, for mental illness;
- Has not had a handgun license revoked and is not under a suspension or ineligibility order due to a domestic violence restraining order;
- Has successfully completed a firearms safety course and test (applicable in Westchester County only); and
- Presents no good cause for the denial of the license.⁶

For information on the background check process used to enforce these provisions, see the [New York Background Checks](#) section.

⁶ N.Y. Penal Law § 400.00(1). See N.Y. Penal Law § 265.00(3) (defining "firearm").

New York Minimum Age to Purchase or Possess Firearms

New York law prohibits anyone under age 21 from obtaining a license to possess or carry a handgun.⁷

Persons under the age of 16 generally may not possess any firearms or ammunition in New York.⁸

New York penalizes transferring a firearm to a person who is or reasonably appears to be less than nineteen years of age if the seller is not legally authorized to possess a firearm.⁹

[Federal age restrictions](#) impose stricter limits.

See [Regulating Guns in America: Minimum Age to Purchase / Possess Firearms](#) for a comprehensive discussion of this issue.

⁷ N.Y. Penal Law § 400.00(1)(a). Honorably discharged U.S. military or New York National Guard personnel are excluded. *Id.*

⁸ N.Y. Penal Law § 265.05. This law does not apply to the possession of a rifle or shotgun (or the appropriate ammunition) by the holder of a hunting license or permit used in accordance with state law. *Id.* In addition, persons between the ages of 12 and 15 may use and possess firearms (not including assault weapons) at a shooting range if under the "immediate supervision, guidance and instruction" of a military officer, certified instructor, parent, guardian, or otherwise qualified person as provided by statute. N.Y. Penal Law § 265.20(a)(7), (16).

⁹ N.Y. Penal Law § 265.16.

Domestic Violence and Firearms in New York

New York law does not explicitly authorize or require the removal of firearms or ammunition at the scene of a domestic violence incident.

Domestic Violence Misdemeanants

New York prohibits persons convicted of specific domestic violence-related misdemeanors from obtaining a license to purchase or possess a handgun, assault weapon, or long guns of certain dimensions, thereby prohibiting these persons from possessing these weapons.¹⁰ State law also prohibits persons with select domestic violence misdemeanor convictions from possessing long guns.¹¹

New York authorizes courts to prohibit a defendant from purchasing or possessing firearms, and to suspend any existing handgun licenses in a defendant's name in cases where the defendant is charged with (but not yet convicted of) certain domestic violence misdemeanors.¹²

Any court that is issuing a sentence for domestic violence or another violent crime may also issue an order of protection. If the court issues such an order, and the crime is a felony or "serious offense," the court must revoke any firearm license possessed by the respondent, order the respondent ineligible for a license, and order the immediate surrender of any firearms possessed or owned.¹³

Reporting of Domestic Violence Misdemeanants for Background Checks

[Federal law](#) prohibits possession of a firearm by a person convicted of a "misdemeanor crime of domestic violence." In 2011, [New York enacted a law](#) establishing a procedure to be used in trials for certain violent misdemeanors to determine whether the crime qualifies as domestic violence under the federal definition of that term. More specifically, when a defendant has been charged with one of a list of crimes, the People may serve a notice alleging that the defendant and the victim had the requisite domestic relationship.¹⁴ Upon conviction, the court must notify the defendant that he or she is entitled to a hearing on that allegation.¹⁵ At such a hearing, the People bear the burden to prove beyond a reasonable doubt that the defendant is related or situated to the victim in the manner alleged in the notice.¹⁶ If the requisite domestic relationship is found, the clerk of the court must send a copy of the written determination in a report of the conviction to the Division of Criminal Justice Services, who then reports the determination to the FBI (which maintains the database used for firearm purchaser background checks).¹⁷

¹⁰ N.Y. Penal Law §§ 400.00(1), 265.00(17).

¹¹ N.Y. Penal Law §§ 265.01(4), 265.00(17).

¹² N.Y. Crim. Proc. Law §§ 530.12(1), 530.14(1)(b).

¹³ N.Y. Crim. Proc. Law §§ 530.14(2)(a); N.Y. Penal Law § 400.00(11).

¹⁴ N.Y. Crim. Proc. Law § 370.15(1).

¹⁵ N.Y. Crim. Proc. Law § 370.15(2).

¹⁶ N.Y. Crim. Proc. Law § 370.15(3).

¹⁷ N.Y. Crim. Proc. Law § 380.97.

Domestic Violence Protective Orders

In certain circumstances, New York prohibits a person subject to a domestic violence protective order or an *ex parte* domestic violence protective order (the “respondent”) from purchasing or possessing handguns, and requires the revocation of any existing handgun license in the name of the respondent.¹⁸ More specifically, when a domestic violence protective order is issued, the court must revoke a license, order the respondent ineligible for a license and order the immediate surrender of any firearms owned or possessed by respondent, if the court finds that the conduct leading to an order of protection involved:

- The infliction of serious physical injury;
- The use or threatened use of a deadly weapon; or
- Behavior constituting a violent felony offense.¹⁹

When a temporary order of protection is issued to protect a victim during a pending criminal action, or in a family court proceeding prior to a final protective order, a court must suspend a firearm license, order the respondent ineligible for a license and order the immediate surrender of all firearms possessed or owned by the respondent, if the court has good cause to believe that the respondent:

- Has a prior conviction of a violent felony;
- Has previously willfully failed to obey a prior order of protection, and the failure involved the infliction of serious physical injury, the use or threatened use of a deadly weapon, or behavior constituting any violent felony offense; or
- Has a prior conviction of stalking in the first, second, third or fourth degree.²⁰

In addition, a court issuing a domestic violence protective order or a temporary order of protection or finding that a respondent has willfully failed to obey a domestic violence order of protection may revoke or suspend the respondent’s handgun license, order the respondent ineligible for a future license, and order the immediate surrender of all handguns owned or possessed by the respondent, if the court finds a substantial risk that the respondent may use or threaten to use a handgun unlawfully against the person(s) for whose protection the order was issued.²¹

When a respondent is found to have willfully failed to obey a domestic violence order of protection, the court must revoke any existing handgun license held by the respondent, order the respondent ineligible for a license, and order the immediate surrender of any or all firearms owned or possessed by the respondent if the failure to obey involved:

- Serious physical injury;
- The use or threatened use of deadly weapons;
- Behavior constituting a violent felony offense; or

¹⁸ N.Y. Fam. Ct. Act § 842-a(1), (2), § 828(1)(a), (3); N.Y. Crim. Proc. Law §§ 530.12(1), 530.14(1)(a), (2). See also N.Y. Penal Law § 400.00(1)(e), (11).

¹⁹ N.Y. Fam. Ct. Act § 842-a(2)(a), (3).

²⁰ N.Y. Crim. Proc. Law §§ 530.12(1), 530.14(1)(a); N.Y. Fam. Ct. Act § 842-a(1).

²¹ N.Y. Crim. Proc. § 530.14(1)(b), (2)(b), (3)(b); N.Y. Fam. Ct. Act § 842-a(1)(b), (2)(b), (3)(b).

- Behavior constituting stalking in the first, second, third or fourth degrees.²²

For laws governing the procedure for surrender of firearms by a person subject to a protective order, see the section entitled [Disarming Prohibited Persons](#), below.

See [Regulating Guns in America: Domestic Violence and Firearms](#) for a comprehensive discussion of this issue.

²² N.Y. Crim. Proc. Law § 530.13(3)(a); N.Y. Fam. Ct. Act §§ 842-a(3)(a), 846-a.

Disarming Prohibited Persons in New York

New York allows a prohibited individual to voluntarily surrender firearms to a designated local law enforcement agency with immunity from the charge of illegal firearm possession.²³

New York law declares any firearm unlawfully possessed to be a nuisance.²⁴ New York law sets out the procedure that must be used if such a firearm comes into the possession of any police officer or peace officer.²⁵

New York law states that the conviction of a handgun licensee for a felony or "serious offense" operates as a revocation of the license.²⁶ An official revoking a license must "notify immediately the duly constituted police authorities of the locality."²⁷

Except in the case of domestic violence protective order defendants (described below), New York has no other law requiring the removal of firearms from, or the surrender of firearms by, [persons who have become prohibited from possessing them](#).

Surrender of Firearms Upon Issuance of a Domestic Violence Protective Order

When a domestic violence order to surrender firearms has been issued, the temporary order of protection or order of protection must specify the place, date and time for the firearms to be surrendered and, to the extent possible, describe the firearms to be surrendered, along with instructions to the receiving authority to notify the court immediately upon surrender. The order must also state whether the firearm license has been suspended, revoked, or that the person subject to the order is ineligible.²⁸

The court that declares a protective order respondent ineligible for a firearms license, revokes or suspends a respondent's license, or orders the surrender of a respondent's firearms must notify the police in the relevant locality and give written notice to the state police. The court must notify the statewide registry of orders of protection.²⁹

The respondent has a right to a hearing before any revocation, suspension, ineligibility or surrender of firearms is ordered. When an order is issued prior to a hearing, the respondent must receive a hearing within two weeks of the date of the order.³⁰

If a respondent promptly surrenders a firearm pursuant to a court order, it is considered a voluntary surrender and the respondent may arrange for the transfer or sale of the firearm to a licensed dealer within a year of surrender. After a year, the firearm is declared a nuisance and can be disposed of by the law enforcement authority who received it.³¹

²³ N.Y. Penal Law § 265.20(f).

²⁴ N.Y. Penal Law § 400.05(1).

²⁵ N.Y. Penal Law § 400.05.

²⁶ N.Y. Penal Law § 400.00(11).

²⁷ *Id.*

²⁸ N.Y. Crim. Proc. Law §§ 530.14(5)(a), (6)(a); N.Y. Fam. Ct. Act § 842-a(5)(a), (6)(a).

²⁹ N.Y. Crim. Proc. Law § 530.14(6)(b)-(d); N.Y. Fam. Ct. Act § 842-a(6)(b)-(d).

³⁰ N.Y. Crim. Proc. Law § 530.14(7); N.Y. Fam. Ct. Act § 842-a(7).

³¹ N.Y. Crim. Proc. Law § 530.14(5)(b); N.Y. Fam. Ct. Act § 842-a(5)(b); N.Y. Penal Law § 400.05(6).

Sales & Transfers

Background Checks in New York

See [Regulating Guns in America: Background Checks](#) for a comprehensive discussion of this issue.

[Federal law requires federally licensed firearms dealers \(but not private sellers\) to initiate a background check on the purchaser prior to sale of a firearm.](#) Federal law provides states with the option of serving as a state “point of contact” and conducting their own background checks using state, as well as federal, records and databases, or having the checks performed by the FBI using only the federal [National Instant Criminal Background Check System \(“NICS”\) database](#). (Note that state files are not always included in the federal database.)

New York is not a point of contact state for the NICS. New York has no law requiring firearms dealers to initiate background checks prior to transferring a firearm. As a result, in New York, firearms dealers must initiate the background check required by federal law by contacting the FBI directly.

Note, however, that sheriffs and police departments in New York conduct a background check prior to issuing a handgun license, which is required for the purchase of a handgun.³² Before delivering a handgun to any person, a firearms dealer must require the person to produce either a valid New York license to carry or possess the weapon, or proof of lawful authority as an exempt person.³³

See the section below for information regarding the [Retention of Sales / Background Check Records in New York](#).

New York law requires gun transfers between unlicensed persons occurring at a gun show to be processed by a licensed firearms dealer, which subjects the prospective purchaser to a background check (see the [New York Gun Shows](#) section for further information). With limited exceptions, anyone wishing to possess a handgun must obtain [a license](#) which requires a background check. Other private firearm transfers are not subject to a background check requirement in New York. See [Regulating Guns in America: Private Sales](#).

³² N.Y. Penal Law § 400.00.

³³ N.Y. Penal Law § 400.00(12).

Mental Health Reporting in New York

See [Regulating Guns in America: Mental Health Reporting](#) for a comprehensive discussion of this issue.

Federal law prohibits possession of a firearm or ammunition by any person who has been “adjudicated as a mental defective” or involuntarily “committed to any mental institution.”³⁴ No federal law, however, requires states to report the identities of these individuals to the [National Instant Criminal Background Check System \(“NICS”\) database](#), which the FBI uses to perform background checks prior to firearm transfers.

New York requires the state Commissioner of Mental Health to collect, retain or modify mental health records and transmit those records to the New York State Division of Criminal Justice Services or to the Criminal Justice Information Service (CJIS) of the Federal Bureau of Investigation (FBI) to respond to queries to the NICS database.³⁵

To ensure that such mental health data is collected for background check purposes, New York requires that:

- Operators of mental health facilities or programs licensed or funded by the state provide to the state Office of Mental Health any records pertaining to persons who may be disqualified from possessing a firearm due to mental illness;³⁶ and
- The Chief Administrator of the Courts in New York state adopt rules to require the transmission, to the CJIS or the State Division of Criminal Justice Services, of the name and other identifying information of each person who has a guardian appointed to him or her because of marked subnormal intelligence, mental illness, incapacity, condition or disease, or who lacks the mental capacity to contract or manage his or her own affairs.³⁷

New York law exempts from the provision stating that mental health data may not be released disclosure to the State Division of Criminal Justice Services for the sole purposes of providing information to the FBI, for the purposes of responding to queries to NICS regarding attempts to purchase firearms.³⁸

In New York, local law enforcement may access the records of the Department of Mental Health to verify that an applicant for a license to purchase and possess a handgun is not prohibited because of a previous or present mental illness.³⁹

In addition, the director or physician in charge of a public or private hospital or mental institution may certify to state or local law enforcement that persons judicially adjudicated

³⁴ [18 U.S.C. § 922\(d\)\(4\)](#).

³⁵ N.Y. Mental Hyg. Law §§ 7.09(j), 13.09(f); N.Y. Comp. Codes R. & Regs. tit. 14, § 542.2.

³⁶ N.Y. Mental Hyg. Law §§ 7.09(j), 31.11, 33.13(b).

³⁷ N.Y. Jud. Law § 212(2)(q).

³⁸ N.Y. Mental Hyg. Law § 33.13(c)(13)(ii).

³⁹ N.Y. Penal Law § 400.00(4).

incompetent or confined to a mental institution pursuant to judicial authority are not suitable to possess a long gun.⁴⁰

For general information on the background check process and categories of prohibited purchasers or possessors, see the [New York Background Checks](#) section and the section entitled [Prohibited Purchasers Generally](#).

⁴⁰ N.Y. Penal Law §§ 265.00(16).

Multiple Purchases / Sales of Firearms in New York

It is a class C felony in New York to unlawfully sell, exchange, give or dispose of five or more handguns, short-barreled shotguns or rifles, or assault weapons to another person or persons in a period of not more than one year.⁴¹ It is a class B felony to unlawfully transfer ten or more such weapons to a person or persons in a period of not more than one year.⁴² These provisions only apply to otherwise *unlawful* transfers. In addition, if an unlicensed individual possesses five or more handguns, short-barreled shotguns or rifles, or assault weapons, New York law presumes that the person intends to sell those weapons.⁴³

New York has no other laws limiting the number of firearms that may be sold to a single person in any given period of time.

See [Regulating Guns in America: Restrictions on Multiple Purchases or Sales of Firearms](#) for a comprehensive discussion of this issue.

⁴¹ N.Y. Penal Law § 265.12.

⁴² N.Y. Penal Law §§ 265.12, 265.13.

⁴³ N.Y. Penal Law § 265.15(6).

Retention of Sales / Background Check Records in New York

New York requires any person licensed as a firearms dealer to keep a record of every transaction involving handguns, short-barreled shotguns or rifles, and assault weapons, including the date, name, age, occupation and residence of any person who receives or delivers such a gun, and the caliber, make, model, manufacturer's name and serial number of the firearm.⁴⁴ Before delivering such a weapon to any person, the dealer must require him or her to produce either a valid license to purchase a handgun, or proof of exempt status. The dealer must then remove and retain the coupon attached to the handgun license and enter in the record book the date of such license, the license number, and name of the licensing officer.⁴⁵

The original transaction record must be forwarded to the Division of State Police within ten days of delivering a handgun, short-barreled shotgun or rifle, or assault weapon to any person, and the dealer must keep a duplicate.⁴⁶ The record book must be maintained on the premises described in the dealer's license and must be open at all reasonable hours for inspection by law enforcement.⁴⁷

New York law also requires anyone who intends to dispose of a lawfully-possessed handgun, short-barreled rifle or shotgun, or assault weapon to first notify in writing the State Police, or, if appropriate, the licensing officer in New York City or Nassau or Suffolk Counties.⁴⁸ (Wholesale dealers, gunsmiths and licensed firearms dealers are exempt from this provision.)

These requirements do not apply to standard length shotguns and rifles.

The New York State Police Pistol Permit Bureau maintains a master database of all transaction records and pistol permits issued in the state. See the [New York State Police Pistol Permit Bureau web site](#) for an overview.

See [Regulating Guns in America: Retention of Firearm Sales and Background Check Records](#) for a comprehensive discussion of this issue.

⁴⁴ N.Y. Penal Law § 400.00(12).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ N.Y. Penal Law § 265.10(7).

New York Waiting Periods

Although there is no specific waiting period prior to purchase of a firearm in New York, all handgun purchasers must obtain a license to possess or carry a handgun, and such licenses may take up to six months to process (or longer, upon written notice to the applicant).⁴⁹

See [Regulating Guns in America: Waiting Periods](#) for a comprehensive discussion of this issue.

⁴⁹ N.Y. Penal Law § 400.00(4-a).

Gun Dealers & Other Sellers

New York Dealer Regulations

See [Regulating Guns in America: Dealer Regulations](#) for a comprehensive discussion of this issue.

[Federal law requires firearms dealers to obtain a license](#) from the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), although resource limitations prevent the ATF from properly overseeing all its licensees.

New York law requires those who engage "in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol or revolver" to obtain a state license in order to conduct business.⁵⁰ Applications must be submitted in the city or county where the business is located.⁵¹ Applicants go through the same background check process as those seeking to carry or possess handguns (see the [New York Licensing of Gun Owners](#) section). New York does not require sellers of long guns only (rifles and shotguns) to obtain a state license.

A firearms dealer license must describe the premises for which it is issued, be valid in that location and be displayed prominently on the premises.⁵² A licensed dealer may conduct business temporarily at a gun show or event sponsored by any organization devoted to the collection, competitive use or other sporting use of firearms, however.⁵³ A firearms dealer license is valid for up to three years from the date of issuance.⁵⁴

For information about the New York law:

- Requiring a locking device to accompany the sale of a firearm, see the [New York Locking Devices](#) section.
- Limiting sales of ammunition, see the [New York Ammunition Regulation](#) section.
- Requiring federally licensed dealers to conduct background checks on firearm purchasers, see the [New York Background Checks](#) section.
- Requiring dealers to maintain records of sales, see the [New York Retention of Sales / Background Check Records](#) section.
- Involving dealers' obligations regarding New York's "Combined Ballistic Identification System," see the [New York Ballistic Fingerprinting](#) section.
- Applicable to both licensed and private firearm sellers, see the [New York Private Sales](#) section.

⁵⁰ N.Y. Penal Law §§ 265.00(9), 400.00(2).

⁵¹ N.Y. Penal Law § 400.00(3).

⁵² N.Y. Penal Law § 400.00(7), (8).

⁵³ N.Y. Penal Law § 400.00(8).

⁵⁴ N.Y. Penal Law § 400.00(10).

Private Sales in New York

See [Regulating Guns in America: Private Sales](#) for a comprehensive discussion of this issue.

New York law requires gun transfers between unlicensed persons occurring at a gun show to be processed by a licensed firearms dealer, which subjects the prospective purchaser to a background check (see the [New York Gun Shows](#) section for further information). With limited exceptions, anyone wishing to possess a handgun must obtain [a license](#) which requires a background check. Other private firearm transfers are not subject to a background check requirement in New York.

A license to possess a handgun must specify each handgun the license holder owns.⁵⁵ License holders who obtain additional handguns must apply to amend their licenses to specify those handguns, and license holders who sell or otherwise transfer their handguns must apply to cancel the listing of those handguns on their license.⁵⁶

New York law requires anyone who intends to transfer a lawfully-possessed handgun, short-barreled rifle or shotgun, or assault weapon, to first notify in writing the State Police, or, if appropriate, the licensing officer in New York City or Nassau or Suffolk Counties.⁵⁷ Finally, New York law includes the following catch-all prohibition: "No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms."⁵⁸

See the section entitled [Firearms Trafficking](#) for additional laws that limit private sales of firearms.

⁵⁵ N.Y. Penal Law § 400.00(9).

⁵⁶ *Id.*

⁵⁷ N.Y. Penal Law § 265.10(7). See NY CLS Penal § 265.00(6) (defining "dispose of").

⁵⁸ N.Y. Penal Law § 400.00(16).

New York Gun Shows

New York law defines "gun show" as "an event sponsored, whether for profit or not, by an individual, national, state or local organization, association or other entity devoted to the collection, competitive use, sporting use, or any other legal use of firearms, rifles or shotguns."⁵⁹ The definition also includes an event at which:

- Twenty percent or more of all exhibitors are firearms exhibitors;
- Ten or more firearms exhibitors are participating;
- Twenty-five or more handguns are offered for sale or transfer; or
- Fifty or more firearms are offered for sale or transfer.

The term "gun show" includes any building, structure or facility where firearms are offered for sale or transfer and any grounds used in connection with the event.⁶⁰

New York requires all firearms sales at gun shows to be processed by a licensed dealer.⁶¹ Prospective purchasers are subject to the same background check process that applies to retail firearm transfers and all dealers processing transactions must record the transfer, retain the transfer records for 10 years, and make the records available to law enforcement (see the [New York Retention of Background Check / Sales Records](#) section).⁶² A person is criminally liable for a misdemeanor if he or she offers or agrees to transfer a firearm to another person at a gun show and then deliver the firearm at a location other than the gun show in order to evade compliance with the background check requirement.⁶³

A licensed dealer is permitted to conduct business temporarily at a gun show or event sponsored by any organization devoted to the collection, competitive use or other sporting use of firearms.⁶⁴ Gun show operators are required to provide access to a licensed firearm dealer at gun shows for the purpose of completing background checks.⁶⁵

Gun show operators must conspicuously post and maintain signs stating: "A National Instant Criminal Background Check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns."⁶⁶ Signs must be posted at all entrances to the gun show, at all places where admission tickets to the gun show are sold, and at not less than four additional locations within the grounds of the gun show.⁶⁷ A gun show

⁵⁹ N.Y. Gen. Bus. Law § 895.

⁶⁰ *Id.*

⁶¹ N.Y. Gen. Bus. Law §§ 896 and 897.

⁶² N.Y. Gen. Bus. Law §§ 896 and 897.

⁶³ N.Y. Gen. Bus. Law § 897.

⁶⁴ N.Y. Penal Law § 400.00(8).

⁶⁵ N.Y. Gen. Bus. Law § 896(1)(c).

⁶⁶ N.Y. Gen. Bus. Law § 896(1)(a).

⁶⁷ *Id.*

operator must notify exhibitors, in writing, that a National Instant Criminal Background Check System ("NICS") check is required prior to all firearm transfers.⁶⁸

In *Scope, Inc. v. Pataki*, 386 F. Supp. 2d 184 (W.D.N.Y. 2005), a group of gun association plaintiffs challenged New York's gun show statutes on various constitutional grounds, including that they allegedly violate the: 1) due process clause of the Fourteenth Amendment to the U.S. Constitution, because the definition of "gun show" is vague; and 2) First Amendment because the definition of "gun show" is so broad that it declares any assembly of gun owners for any purpose a "gun show," infringing on plaintiffs' rights of lawful assembly and free speech and right to petition the government.

On the due process challenge, the court held that the definition of gun show in New York law was not vague.⁶⁹ The court found that definition of "gun show" is not vague, but as to the First Amendment challenge, the court found the definition to be overbroad in its prohibitions, stating that the law "defines any gathering of a gun club to be a 'gun show.'"⁷⁰ Thus, the court found the definition to be unconstitutional.

See the [New York Private Sales](#) section for additional state laws that may apply at gun shows.

See [Regulating Guns in America: Gun Shows](#) for a comprehensive discussion of this issue.

⁶⁸ N.Y. Gen. Bus. Law § 896(1)(b).

⁶⁹ *Scope, Inc.*, 386 F. Supp. 2d at 191.

⁷⁰ *Scope, Inc.*, 386 F. Supp. 2d at 194-5.

New York Immunity Statutes

New York law provides no special immunity to the gun industry.

For detailed information about government and private party lawsuits against the gun industry, the status of litigation involving gun industry immunity statutes in various states, or pending gun industry immunity legislation, visit the [Brady Center's Legal Action Project](#) and the [Coalition to Stop Gun Violence's Gun Industry Immunity page](#).

See [LCAV's policy page on Immunity Statutes / Manufacturer Litigation](#) for further information.

Gun Owner Responsibilities

Licensing of Gun Owners or Purchasers in New York

New York generally requires anyone wishing to possess a handgun to first obtain a license, following a background check.⁷¹ Applications must be made to the licensing authority in the city or county where the applicant resides, is principally employed, or has his or her principal place of business.⁷² Current photographs and fingerprints must be supplied with the application to facilitate the background check process.⁷³ Except upon written notice to the applicant, applications must be processed within six months.⁷⁴

The license must include the licensee's photograph and a coupon to be removed and retained by any person disposing of a handgun, short-barreled shotgun or rifle, or assault weapon to the licensee.⁷⁵ The license must specify the weapon by caliber, make, model, manufacturer's name and serial number, and must indicate if the handgun may be carried on the person or possessed in a particular location.⁷⁶ A person licensed to carry or possess a pistol or revolver may apply at any time to his licensing officer for amendment of his license to include more weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved must be filed by the licensing officer with the State Police.⁷⁷

Firearm Safety Training

In the county of Westchester only, at the time of application, the licensing officer to which the license application is made must provide a copy of the safety course booklet to each license applicant.⁷⁸ Before the license is issued, the licensing officer must require that the applicant submit a certificate of successful completion of a firearms safety course and test affirmed by a duly authorized instructor.

Duration & Renewal

Licenses are generally valid until revoked, but they have a fixed duration in New York City (three years) and in Nassau, Suffolk and Westchester counties (five years).⁷⁹

Location Limits

The license is valid throughout the state, except in New York City, where a special local permit granting validity is issued by New York City's police commissioner.⁸⁰

⁷¹ N.Y. Penal Law §§ 265.00 *et seq.*, 400.00, 400.01.

⁷² N.Y. Penal Law § 400.00(3).

⁷³ *Id.*, N.Y. Penal Law § 400.00(4).

⁷⁴ N.Y. Penal Law § 400.00(4-a).

⁷⁵ N.Y. Penal Law § 400.00(7).

⁷⁶ *Id.*

⁷⁷ N.Y. Penal Law § 400.00(9).

⁷⁸ N.Y. Penal Law § 400.00(1)(f), (4-b).

⁷⁹ N.Y. Penal Law § 400.00(10).

⁸⁰ N.Y. Penal Law § 400.00(6).

Disclosure of Information

New York law states that the name and address of any person to whom an application for any license has been granted is a public record.⁸¹

See [Regulating Guns in America: Licensing of Gun Owners or Purchasers](#) for a comprehensive discussion of this issue.

⁸¹ N.Y. Penal § 400.00(5).

New York Registration of Firearms

New York does not require firearms to be registered, although all handgun owners must obtain a license identifying each handgun they own. See the section entitled [Licensing of Gun Owners](#) regarding the license requirement. See the section entitled [Retention of Sales / Background Check Records in New York](#) for information about sales reporting requirements.

See [Regulating Guns in America: Registration of Firearms](#) for a comprehensive discussion of this issue.

Reporting Lost or Stolen Firearms in New York

New York requires any owner or other person lawfully in possession of a firearm to report the loss or theft of the weapon to a police department or sheriff's office within 24 hours of the discovery of the loss or theft.⁸²

See [*Regulating Guns in America: Reporting Lost or Stolen Firearms*](#) for a comprehensive discussion of this issue.

⁸² N.Y. Penal Law § 400.10.

Firearms in Public Places

Concealed Weapons Permitting in New York

See [Regulating Guns in America: Carrying Concealed Weapons](#) for a comprehensive discussion of this issue.

New York prohibits the possession of a loaded handgun, short-barreled shotgun or rifle, or a loaded or unloaded assault weapon outside of the home or place of business without a license.⁸³ The term "loaded firearm" includes any firearm possessed by a person who also possesses any ammunition which may be discharged by the firearm, whether the firearm is loaded or unloaded.⁸⁴

New York is a "may issue" state, meaning that local law enforcement has discretion in determining whether to issue a concealed weapons license to an applicant. A license to carry a concealed handgun may be granted by the appropriate licensing authority on the same basis as a license to possess a handgun (see the section entitled [New York Prohibited Purchasers Generally](#)), except that those seeking to carry a handgun without regard to employment or place of possession must show "proper cause."⁸⁵

Licenses to carry a handgun held by persons who are later convicted of a felony or serious offense are automatically revoked upon conviction.⁸⁶ In certain situations, a court issuing a domestic violence order of protection or finding that an individual violated an order of protection must revoke the individual's license to carry a handgun or, if none exists, order the individual ineligible for a license.⁸⁷

Firearm Safety Training

New York does not generally require applicants for a license to carry a handgun to undergo firearm safety training. However, in the county of Westchester, at the time of application, the licensing officer to which the license application is made must provide a copy of the safety course booklet to each license applicant.⁸⁸ Before the license is issued, the licensing officer must require that the applicant submit a certificate of successful completion of a firearms safety course and test affirmed by a duly authorized instructor.⁸⁹ Note that these requirements apply to all handgun licensees in the county of Westchester, not just those for a license to carry a handgun.

⁸³ N.Y. Penal Law §§ 265.02(7), 265.03(3).

⁸⁴ N.Y. Penal Law § 265.00(15).

⁸⁵ N.Y. Penal Law § 400.00(2)(f).

⁸⁶ N.Y. Penal Law § 400.00(11).

⁸⁷ N.Y. Family Ct. Act § 842-a. Additional application and background check requirements, as well as permit suspension or disqualification information, are detailed under N.Y. Penal Law § 400.00(3), (4), (4-a), and (7).

⁸⁸ N.Y. Penal Law § 400.00(1)(f), (4-b).

⁸⁹ *Id.*

Duration & Renewal

Licenses are generally valid until revoked, but have a fixed duration in New York City (three years) and in Nassau, Suffolk and Westchester Counties (five years).⁹⁰

Disclosure or Use of Information

New York has no specific laws relating to the disclosure or use of information collected from licensees and applicants.

Reciprocity

No relevant statutes currently exist, indicating that New York does not recognize concealed weapons permits issued in other states.

⁹⁰ N.Y. Penal Law § 400.00(10).

Open Carrying in New York

New York prohibits the possession of a “loaded” handgun outside of the home or place of business without a license.⁹¹ The state also prohibits any person from possessing a “loaded” short-barreled shotgun or rifle or an assault weapon outside of his or her home or place of business.⁹² The prohibition on possessing an assault weapon extends to unloaded assault weapons.⁹³ The term “loaded firearm” includes any firearm possessed by a person who also possesses any ammunition which may be discharged by the firearm, whether the firearm is loaded or unloaded.⁹⁴ New York does not issue licenses to carry handguns openly.⁹⁵

New York has no law restricting the open carrying of long guns in public.

For a comprehensive discussion of this issue, see [LCAV's policy page on the Open Carrying of Firearms in Public](#).

⁹¹ N.Y. Penal Law § 265.03(3).

⁹² *Id.*

⁹³ N.Y. Penal Law § 265.02(7).

⁹⁴ N.Y. Penal Law § 265.00(15).

⁹⁵ See N.Y. Penal Code § 400.00.

Location Restrictions

Guns in Vehicles in New York

New York generally prohibits the possession of a handgun, short-barreled rifle or shotgun, or assault weapon outside one's home or place of business, except that persons licensed to carry a handgun may do so. For further information see [Open Carrying in New York](#).

A license to carry or possess a handgun is generally effective throughout the state, except in New York City.⁹⁶ Although a state license to carry a handgun is generally invalid in New York City, a license is valid if the firearm covered by the license:

- Has been purchased from a licensed dealer within the city of New York and is being transported out of the city immediately from the dealer by the licensee in a locked container during a continuous and uninterrupted trip; or
- Is being transported by the licensee in a locked container and the trip through the city of New York is continuous and uninterrupted.⁹⁷

New York law provides that the presence in an automobile of any firearm or large capacity ammunition feeding device is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same.⁹⁸

New York prohibits the possession of a loaded long gun in or on a motor vehicle, except in certain hunting scenarios.⁹⁹

⁹⁶ N.Y. Penal Law § 400.00(6).

⁹⁷ N.Y. Penal Law § 400.00(6).

⁹⁸ N.Y. Penal Law § 265.15 (3). This rule does not apply to the regular and ordinary transportation of firearms as merchandise. See N.Y. Penal Law § 265.20(9), (9-a).

⁹⁹ N.Y. CLS ECL § 11-0931(2).

Guns in Schools in New York

New York prohibits any person, including a handgun license holder, from knowingly possessing a firearm in or upon a building or grounds, used for educational purposes, of any school, college or university without the written permission of the institution.¹⁰⁰ In addition, it is unlawful for any person age sixteen or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO₂ cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution.¹⁰¹

See [LCAV's policy page on Guns in Schools](#) for further information.

¹⁰⁰ N.Y. Penal Law §§ 265.01(3), 265.20(a)(3).

¹⁰¹ N.Y. Penal Law § 265.06.

Other Location Restrictions in New York

A New York license to carry a handgun is generally not valid in New York City without an additional permit issued by local law enforcement.¹⁰²

Firearm possession is generally prohibited:

- In state parks, except for hunting purposes where permitted;¹⁰³
- On the grounds of a residential child care facility;¹⁰⁴
- At any facility of the New York Department of Mental Hygiene, or any residential facility that has an operating certificate issued by the Department;¹⁰⁵ or
- At any facility operated or licensed by the Office of Mental Health of the Department of Mental Hygiene.¹⁰⁶

New York has no laws prohibiting firearms in the following places, although administrative regulations may apply:

- Bars and other places where alcoholic beverages are sold or served;
- Places of worship;
- Sports arenas;
- Gambling facilities; or
- Polling places.

¹⁰² N.Y. Penal Law § 400.00(7).

¹⁰³ N.Y. Comp. Codes R. & Regs. tit. .9, § 375.1(p).

¹⁰⁴ N.Y. Comp. Codes R. & Regs. tit. 18, § 441.19(f).

¹⁰⁵ N.Y. Comp. Codes R. & Regs. tit. 14, § 45.1.

¹⁰⁶ N.Y. Comp. Codes R. & Regs. tit. 14, § 542.5(a)

Consumer & Child Safety

New York Design Safety Standards for Handguns

In New York, the Superintendent of State Police (Superintendent) is authorized to issue rules and regulations reasonably necessary to prevent the manufacture and assembly of unsafe handguns, short-barreled shotguns or rifles, and assault weapons.¹⁰⁷ Pursuant to regulations promulgated by the Superintendent, a person who is engaged in the business of manufacturing or assembling handguns must obtain a certificate of compliance for each specific handgun model he or she wishes to manufacture or assemble in New York.¹⁰⁸ Certificates of compliance are granted subject to a prototype of the handgun passing a series of tests. If the handgun does not perform satisfactorily during the tests, the certificate will be revoked or suspended to allow the manufacturer to remedy the deficiency.¹⁰⁹ The prototype must meet requirements based on materials and parts, and safe functioning.¹¹⁰

Material and parts requirements include:

- Basic structural component specifications including melting point and tensile strength;
- An absence of cracks, bulges or splits in or on the barrel, chambers of the cylinder, slide, cylinder-frame and/or receiver after firing;
- The existence of safety devices to prevent firing;
- A specified amount of space between the barrel and cylinder in a revolver after firing; and
- A specified chamber diameter.¹¹¹

Safe functioning tests include:

- A proof test which includes visual examination of a cartridge after firing to ensure there are no splits or other defects;
- An endurance test consisting of firing 1,000 rounds of ammunition and a test of the safety device after all firing is completed; and
- A drop test, performed a total of five times after the endurance test is complete, to determine whether the safety device will withstand the impact of a weight equal to that of a firearm dropping from a distance of 36 inches.¹¹²

In addition, members of the state police must be permitted on any business day, during business hours, to inspect a manufacturer's premises and records pertaining to the firearms manufactured or assembled within the premises.¹¹³ The purpose of such inspections is to

¹⁰⁷ N.Y. Penal Law § 400.00(12-a).

¹⁰⁸ N.Y. Comp. Codes R. & Regs. tit. 9, § 482.2.

¹⁰⁹ See N.Y. Comp. Codes R. & Regs. tit. 9, § 482.3.

¹¹⁰ N.Y. Comp. Codes R. & Regs. tit. 9, §§ 482.5 and 482.6.

¹¹¹ N.Y. Comp. Codes R. & Regs. tit. 9, § 482.5.

¹¹² N.Y. Comp. Codes R. & Regs. tit. 9, § 482.6.

¹¹³ N.Y. Comp. Codes R. & Regs. tit. 9, § 482.4.

ensure that the manufacture and assembly of firearms are being conducted in accordance with the certificate of compliance.¹¹⁴

See [Regulating Guns in America: Design Safety Standards for Handguns](#) for a comprehensive discussion of this issue.

¹¹⁴ *Id.*

Locking Devices in New York

Firearms dealers are required to transfer a locking device with each firearm, and include a warning label (either affixed to the firearm or placed in the container in which the firearm is transferred).¹¹⁵ The warning must state: "The use of a locking device or safety lock is only one aspect of responsible firearm storage. For increased safety firearms should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized person."¹¹⁶ In addition, dealers are required to post, in the place where firearms are displayed or transferred to the purchaser, a notice conspicuously stating in bold print the warning quoted above.¹¹⁷

The term "gun locking device" is defined by New York law as:

[A]n integrated design feature or an attachable accessory that is resistant to tampering and is effective in preventing the discharge of such rifle, shotgun or firearm by a person who does not have access to the key, combination or other mechanism used to disengage the device.¹¹⁸

The Division of State Police must develop and promulgate regulations setting forth the specific devices or minimum standards and criteria which constitute an effective gun locking device.¹¹⁹ These regulations can be found at the [New York State Police web site](#).¹²⁰

See [Regulating Guns in America: Locking Devices](#) for a comprehensive discussion of this issue.

¹¹⁵ New York Gen. Bus. Law § 396-ee(1).

¹¹⁶ New York Gen. Bus. Law § 396-ee(2).

¹¹⁷ New York Gen. Bus. Law § 396-ee(2).

¹¹⁸ New York Gen. Bus. Law § 396-ee(1).

¹¹⁹ New York Gen. Bus. Law § 396-ee(1).

¹²⁰ See also N.Y. Comp. Codes R. & Regs. tit. 9, § 471.1 *et seq.*

Personalized / Owner-Authorized Firearms in New York

New York does not require firearms to be personalized. See [Regulating Guns in America: Personalized Firearms](#) for a comprehensive discussion of this issue.

New York Child Access Prevention

New York has no law specifically penalizing a person who enables a child to access a firearm.¹²¹ See [Regulating Guns in America: Child Access Prevention](#) for a comprehensive discussion of this issue.

¹²¹ New York penalizes transferring a firearm to a person who is or reasonably appears to be less than nineteen years of age only if the seller is not legally authorized to possess a firearm. N.Y. Penal Law § 265.16. See the [Minimum Age to Purchase or Possess Firearms](#) section for further information.

Classes of Weapons / Ammunition

Assault Weapons in New York

See [Regulating Guns in America: Assault Weapons](#) for a comprehensive discussion of this issue.

New York's assault weapon law (modeled after the now-expired federal assault weapon ban) prohibits manufacturing, transporting, disposing of, or possessing an assault weapon in New York.¹²² New York's assault weapon ban does not apply to the transfer or possession of assault weapons manufactured before September 14, 1994.¹²³

An assault weapon is defined as:

- A semi-automatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristic:
 - A folding or telescoping stock;
 - A pistol grip that protrudes conspicuously beneath the action of the weapon;
 - A bayonet mount;
 - A flash suppressor or threaded barrel designed to accommodate a flash suppressor;
 - A grenade launcher; or
- A semi-automatic shotgun that has at least two of the following characteristics:
 - A folding or telescoping stock;
 - A pistol grip that protrudes conspicuously beneath the action of the weapon;
 - A fixed magazine capacity in excess of five rounds;
 - An ability to accept a detachable magazine; or
- A semi-automatic pistol that has an ability to accept a detachable magazine and has at least two of the following characteristics:
 - An ammunition magazine that attaches to the pistol outside of the pistol grip;
 - A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
 - A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
 - A manufactured weight of fifty ounces or more when the pistol is unloaded;
 - A semi-automatic version of an automatic rifle, shotgun or handgun; or
- Any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, in any caliber, known as:

¹²² N.Y. Penal Law §§ 265.02(7) and 265.10.

¹²³ N.Y. Penal Law § 265.00(22)(e)(v).

- Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
- Action Arms Israeli Military Industries UZI and Galil;
- Beretta Ar70 (SC-70);
- Colt AR-15;
- Fabrique National FN/FAL, FN/LAR, and FNC;
- SWD M-10, M-11, M-11/9, and M-12;
- Steyr AUG;
- INTRATEC TEC-9, TEC-DC9 and TEC-22; and
- Revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12.¹²⁴

The following are not considered assault weapons:

- Any rifle, shotgun or pistol that:
 - Is manually operated by bolt, pump, lever or slide action; or
 - Has been rendered permanently inoperable;
- A semi-automatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; or
- A semi-automatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.¹²⁵

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¹²⁴ N.Y. Penal Law § 265.00(22).

¹²⁵ *Id.* N.Y. Penal Law § 265.00(22)(e)(iv) also exempts any "rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in" Appendix A to 18 U.S.C. § 922, as manufactured on October 1, 1993. N.Y. Penal Law § 265.00(22)(e)(i)(C) exempts any rifle, shotgun or pistol that is an antique firearm as defined in 18 U.S.C. § 921(a)(16). However, the federal provisions to which these sections of New York law refer were part of the federal assault weapon ban that expired on September 13, 2004.

Large Capacity Ammunition Magazines in New York

New York prohibits the manufacture, transportation, disposal and possession of any large capacity ammunition feeding device, which New York law defines as "a magazine, belt, drum, feed strip, or similar device" manufactured after September 13, 1994 (the date the now-expired federal assault weapon and large-capacity magazine ban became effective), "that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition."¹²⁶

See [Regulating Guns in America: Large Capacity Ammunition Magazines](#) for a comprehensive discussion of this issue.

¹²⁶ N.Y. Penal Law §§ 265.00(23), 265.02(8), 265.10.

Fifty Caliber Rifles in New York

New York has no law restricting fifty caliber rifles. See [Regulating Guns in America: Fifty Caliber Rifles](#) for a comprehensive discussion of this issue.

Machine Guns/Automatic Firearms in New York

New York penalizes any person who possesses any machine gun or any other firearm or weapon simulating a machine gun and which is adaptable for such use.¹²⁷ It also penalizes any person who manufactures or causes to be manufactured, transports, ships, or disposes of any machine gun.¹²⁸

The presence in any room, dwelling, structure, or vehicle of any machine gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine gun is found.¹²⁹

A person who possesses any machine gun as an executor, administrator, or any other lawful possessor of such property of a decedent must deliver the machine gun to an appropriate official or to the superintendent of state police within 15 days.¹³⁰

As used in New York law "machine gun" means "a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun."¹³¹

See [LCAV's policy page on Machine Guns](#) for further information.

¹²⁷ N.Y. Penal Law §§ 265.02(2) and (3).

¹²⁸ N.Y. Penal Law §§ 265.10(1), (2), (3) and (6).

¹²⁹ N.Y. Penal Law § 265.15(1).

¹³⁰ Such officer must hold it and thereafter deliver it on the written request of the executor, administrator, or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the machine gun is received within one year of the delivery, such official must dispose of it. N.Y. Penal Law § 265.20(1)(f).

¹³¹ N.Y. Penal Law § 265.00(1).

Non-Powder Guns in New York

New York law prohibits any person under the age of sixteen from possessing any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air.¹³² New York has no other law governing non-powder guns.

See [Regulating Guns in America: Non-Powder Guns](#) for a comprehensive discussion of this issue.

¹³² N.Y. Penal Law § 265.05.

Ammunition Regulation in New York

See [Regulating Guns in America: Ammunition Regulation](#) for a comprehensive discussion of this issue.

New York law does not:

- Prohibit individuals ineligible to possess firearms under state law from possessing ammunition;
- Require a license for the possession of ammunition; or
- Require a license to sell ammunition.

Minimum Age to Purchase/Possess Ammunition

New York prohibits the possession of ammunition by any person under age 16.¹³³ [Federal law](#) imposes additional age restrictions.

Regulation of Unreasonably Dangerous Ammunition

New York prohibits the possession of armor piercing ammunition with the intent to use it unlawfully against another.¹³⁴ “Armor piercing ammunition” is any ammunition capable of being used in handguns that contains a projectile or projectile core constructed entirely from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper or uranium.¹³⁵

New York generally prohibits any person from knowingly possessing any bullet containing an explosive substance designed to explode or detonate upon impact.¹³⁶

License to Purchase Handgun Ammunition

A firearms dealer may not sell any ammunition designed exclusively for use in a handgun to any person who is not authorized to possess a pistol or revolver.¹³⁷ See the [New York Licensing of Gun Owners](#) section for further information.

¹³³ N.Y. Penal Law § 265.05.

¹³⁴ N.Y. Penal Law § 265.01(8).

¹³⁵ N.Y. Penal Law § 265.00(18).

¹³⁶ N.Y. Penal Law § 265.01(7).

¹³⁷ N.Y. Penal Law § 270.00(5).

Investigating Gun Crimes

New York Microstamping/Ballistic Identification

New York law requires any firearms manufacturer that ships, transports or delivers a handgun to any person in New York to include a separate sealed container with a shell casing of a bullet or projectile discharged from the handgun, along with additional information that identifies the handgun and shell casing.¹³⁸ Any state-licensed gunsmith or firearms dealer must, within ten days of delivering a handgun received on or after March 1, 2001, forward to the Division of State Police the sealed container enclosing the shell casing from the handgun.¹³⁹ The state police must enter the pertinent ballistic information into an automated electronic databank (the "Combined Ballistic Identification System" or "CoBIS") designed to ensure compatibility with national ballistic technology.¹⁴⁰

See [Regulating Guns in America: Ballistic Identification](#) for a comprehensive discussion of this issue.

¹³⁸ N.Y. Gen. Bus. Law § 396-ff(2).

¹³⁹ N.Y. Gen. Bus. Law § 396-ff(5).

¹⁴⁰ N.Y. Gen. Bus. Law § 396-ff(6). For detailed information on CoBIS, see N.Y. Comp. Codes R. & Regs. tit. 9, § 472.1 et seq.

Firearms Trafficking in New York

See [LCAV's policy page on Firearms Trafficking](#) for further information on this topic.

New York law imposes sentences harsher than those for the normal illegal sale or possession of firearms on anyone who:

- Knowing that he or she is prohibited by law from possessing a firearm, attempts to purchase a firearm from another person.¹⁴¹
- Knowing that it would be unlawful for another person to possess a firearm, purchases a firearm for, on behalf of, or for the use of the other person (a "straw purchase").¹⁴²
- Is not authorized to possess a handgun, short-barreled shotgun or rifle, or assault weapon, and who: 1) transfers such a weapon or large capacity ammunition feeding device to another person; or 2) possesses such a weapon with the intent to sell it.¹⁴³
- Is not authorized to possess a handgun, short-barreled shotgun or rifle, or assault weapon and transfers such a weapon to another person who is, or reasonably appears to be, under age 19 and not licensed to possess such a weapon.¹⁴⁴
- Is over the age of eighteen and, knowingly solicits, requests, commands, importunes or intentionally aids a person under age sixteen to knowingly and unlawfully sell, exchange, give or dispose of a handgun, short-barreled shotgun or rifle, or assault weapon.¹⁴⁵
- Knowing that a written instrument (such as a firearms sales form) contains a false statement or false information, offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.¹⁴⁶
- Transports or ships firearms as merchandise.¹⁴⁷ The regular and ordinary transport of firearms as merchandise is exempted if the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, provides written notice to the local head of law enforcement at the place of delivery.¹⁴⁸ The penalty for a violation of this provision is steeper if a machine gun, assault weapon, large capacity ammunition magazine, or five or more handguns are transported or shipped.¹⁴⁹
- Willfully defaces any firearm.¹⁵⁰

¹⁴¹ N.Y. Penal Law § 265.17(1).

¹⁴² N.Y. Penal Law § 265.17(2).

¹⁴³ N.Y. Penal Law § 265.11.

¹⁴⁴ N.Y. Penal Law § 265.16.

¹⁴⁵ N.Y. Penal Law § 265.14.

¹⁴⁶ N.Y. Penal Law § 175.30.

¹⁴⁷ N.Y. Penal Law § 265.10(2).

¹⁴⁸ N.Y. Penal Law § 265.20(9).

¹⁴⁹ N.Y. Penal Law § 265.10(2).

¹⁵⁰ N.Y. Penal Law § 265.10(6).

- Knowingly buys, receives, disposes of, or conceals a firearm which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of the firearm.¹⁵¹

The possession by any person of a defaced firearm is presumptive evidence that such person defaced the weapon.¹⁵²

See [Multiple Purchases / Sales of Firearms in New York](#) for additional laws designed to curb gun trafficking.

¹⁵¹ N.Y. Penal Law § 265.10(3).

¹⁵² N.Y. Penal Law § 265.15(5).

New York State Links

[Bureau of Alcohol, Tobacco, Firearms and Explosives, New York Field Division](#)

[Office of the Attorney General, State of New York](#)

[New Yorkers Against Gun Violence](#)

[New York State Coalition Against Domestic Violence](#)