

# New York CCW LAW

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## Introduction

Please note that many firearms-related laws have exceptions for military and law enforcement personnel. In addition, New York statutes sometimes use the word “firearm” when referring specifically to handguns, short-barreled shotguns/rifles, and assault weapons. [N.Y. Penal Law Tit. P, § 265.00\(3\)](#). To avoid confusion, we have simply said “handguns, short-barreled shotguns/rifles, and assault weapons” in these cases. When referring to guns generally, we have used the word “firearm” as it is defined at [18 U.S.C. 921\(a\)\(3\)\(A\)](#) “any weapon...which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.” For more information on federal regulation of short-barreled shotguns/rifles, see [18 U.S.C. §§ 921\(a\)\(6\) and \(8\)](#) [short-barreled shotguns/rifles defined], [922\(a\)\(4\)](#) [transportation in interstate or foreign commerce], and [922\(b\)\(4\)](#) [transfer prohibited by licensees].

## Assault Weapons

It is a class D felony to manufacture, transport, dispose of, or possess an assault weapon in New York. [N.Y. Penal Law Tit. P, § 265.02](#); exceptions at [Tit. P, § 265.20](#). However, New York’s assault weapons law is almost identical to [federal law](#), and it does not apply to the transfer or possession of assault weapons manufactured before September 13, 1994. [Tit. P, § 265.00\(22\)\(e\)\(v\)](#), see below, and [18 U.S.C. 921\(a\)](#) and [922\(v\)\(3\)](#).

Assault weapons are defined by [Tit. P, § 265.00\(22\)](#) as:

- (a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least two of the following characteristics:
  - (i) a folding or telescoping stock;
  - (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
  - (iii) a bayonet mount;
  - (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;
  - (v) a grenade launcher; or
  
- (b) a semiautomatic shotgun that has at least two of the following characteristics:
  - (i) a folding or telescoping stock;
  - (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
  - (iii) a fixed magazine capacity in excess of five rounds;
  - (iv) an ability to accept a detachable magazine; or
  
- (c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least two of the following characteristics:
  - (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
  - (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
  - (iii) 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;
  - (iv) a manufactured weight of fifty ounces or more when the pistol is unloaded;
  - (v) a semiautomatic version of an automatic rifle, shotgun or firearm; or
  
- (d) any of the weapons, or functioning frames or receivers of such weapons, or copies or duplicates of such weapons, in any caliber, known as:
  - (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
  - (ii) Action Arms Israeli Military Industries UZI and Galil;
  - (iii) Beretta Ar70 (SC-70);
  - (iv) Colt AR-15;
  - (v) Fabrique National FN/FAL, FN/LAR, and FNC;

- (vi) SWD M-10, M-11, M-11/9, and M-12;
- (vii) Steyr AUG;
- (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
- (ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12[.]

(e) provided, however, that such term does not include:

- (i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16);
- (ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;
- (iii) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine;
- (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to section 922 of 18 U.S.C. as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon; or
- (v) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or any of the weapons defined in paragraph (d) of this subdivision lawfully possessed prior to September fourteenth, nineteen hundred ninety-four.

## Background Checks

Federal law generally requires that licensed firearms dealers conduct a background check on all prospective firearms purchasers to ensure that such persons are not prohibited from buying or possessing a firearm. This background check requirement and the National Instant Criminal Background Check System (“NICS”) were enacted through the Brady Handgun Violence Prevention Act, pursuant to Public Law 103-159, and codified at 18 U.S.C. § 921 et seq. Federal law defines a number of classes of prohibited purchasers (including felons, fugitives, persons adjudicated as “mental defectives” or those committed to mental institutions), and leaves to the states the power to determine additional classes. (For a complete list of federally prohibited purchasers, click [here](#).)

Under the Brady Act, states have the option of serving as a “state point of contact” and conducting their own background checks using NICS and state informational records and databases, or having the checks performed by the FBI using only NICS. Federal law does not require that private sellers (persons other than firearms dealers) conduct background checks on prospective purchasers.

In New York, local law enforcement (i.e., the police commissioner, sheriff, judge, or justice of the court) serves as a partial state point of contact for implementation of the Brady Act. N.Y. Penal Law Tit. P, § 265.00(10) and Tit. W, § 400.00(1). Generally, anyone wishing to possess or carry a handgun must obtain a state license. Tit. P, § 265.00 et seq., and Tit. W, §§ 400.00 and 400.01. The license is processed through local law enforcement, which in turn uses NICS and other databases/records (including the appropriate office of the department of mental hygiene) to verify that the applicant is not prohibited from possessing a handgun. Tit. W, § 400.00(4). New York licenses to possess or carry a handgun qualify as an alternative to the Brady Act background check, meaning that such licensees are not subject to an additional background check at the point of sale. Under federal law, persons who have been issued state permits to purchase or possess firearms are exempt from point of sale background checks if those permits were issued within the previous five years in the state in which the transfer is to take place, and after an authorized government official has verified that possession of a firearm would not be unlawful. 18 U.S.C. § 922(t)(3). See the [ATF chart](#) outlining permits that qualify as Brady Act alternatives.

In addition to the federal purchaser prohibitions referenced above, New York has adopted other classes of prohibited persons, and incorporated some of the federal prohibitions as state offenses. Tit. W, § 400.00(1) states that no license shall be issued or renewed except to an applicant:

- (a) twenty one-years of age or older [excluding honorably discharged U.S. military or New York national guard personnel];
- (b) of good moral character;

(c) who has not been convicted anywhere of a felony or a serious offense [which can include: illegally using, carrying or possessing a pistol 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 offences or crimes involving sodomy or rape, which were formerly classified as misdemeanors; child endangerment; certain crimes permitting or promoting prostitution; or certain kinds of stalking. See [Tit. P, § 265.00\(17\)](#).];

(d) who has stated whether he has ever suffered from any mental illness or been confined to any hospital or institution, public or private, for mental illness;

(e) who has not had a license revoked or who is not under a suspension or ineligibility order...;

(f) in the county of Westchester, who has successfully completed a firearms safety course and test [with certain exceptions]...; and

(g) concerning whom no good cause exists for the denial of the license.

See the [New York Licensing of Gun Purchasers/Owners](#) section.

Transfers of rifles and shotguns by licensed dealers are processed directly through the FBI, while such transfers by private sellers (non-firearms dealers) are not subject to background checks at all, except when the transfer occurs at a gun show (see [New York Gun Show](#) section). In both cases, transfers are not subject to the additional state purchaser prohibitions listed above (although federal prohibitions still apply).

## Ballistic Fingerprinting

[N.Y. Gen. Bus. Law Art. 26, § 396-ff\(2\)](#) 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.

A state-licensed gunsmith or firearms dealer shall, within ten days of delivering to any person a handgun received on or after March 1, 2001, forward to the division of state police, along with the original transaction report required by [Penal Law Tit. W, § 400.00\(12\)](#), the sealed container enclosing the shell casing from the handgun. [N.Y. Gen. Bus. Law Art. 26, § 396-ff\(5\)](#). The division of state police shall enter the pertinent data and other ballistic information into an automated electronic databank designed to ensure compatibility with national ballistic technology. [Art. 26, § 396-ff\(6\)](#).

## Concealed Carry Regulations

New York is a "may issue" state. 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 [New York Background Checks](#) section), except that those seeking to have and carry a handgun without regard to employment or place of possession must show "proper cause." [N.Y. Penal Law Tit. W, § 400.00\(2\)](#).

Applications must be made in the city or county where the applicant "resides, is principally employed or has his principal place of business as merchant or storekeeper...." [Tit. W, § 400.00\(3\)](#). Current photographs and fingerprints must be supplied with the application to facilitate the background check process. *Id.* and [Tit. W, § 400.00\(4\)](#). Except upon written notice to the applicant, applications shall be processed within six months. [Tit. W, § 400.00\(4-a\)](#).

Once issued, the license shall include the licensee's photograph, "and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee." [Tit. W, § 400.00\(7\)](#). The license shall specify the weapon covered by caliber, make, model, manufacturer's name and serial number, and shall indicate if the handgun may be carried on the person or possessed in a particular location. *Id.*

### Disclosure or Use of Information

There are no specific laws relating to the disclosure or use of information collected from licensees and applicants.

### Duration & Renewal

Licenses are generally valid until revoked, but they have a fixed duration in New York City (3 years), and in Nassau, Suffolk and Westchester counties (5 years). [Tit. W, § 400.00\(10\)](#).

### Location Limits

Some licenses state that the licensee may only carry a concealed weapon during the course of his or her employment. [Tit. W, § 400.00\(2\)](#). Otherwise the license is valid throughout the state, except New York City, where additional rules apply. [Tit. W, § 400.00\(6\)](#).

### Reciprocity

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

other states.

## Child Access Prevention

No relevant statutes currently exist. However, for measures related to child access prevention, see the [New York Locking Devices](#) section.

## Dealer Regulations/ Permitting

Firearms dealers (i.e., 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;” [N.Y. Penal Law Tit. P, § 265.00\(9\)](#)) must obtain a state license in order to conduct businesses. [Tit. W, § 400.00\(2\)](#).

Applicants go through the same background check process as those seeking to carry or possess handguns (see [New York Background Checks](#) section).

Applications must be made in the city or county where the business is located. [Tit. W, § 400.00\(3\)](#). Current photographs and fingerprints must be supplied with the application to facilitate the background check process. *Id.* and [Tit. W, § 400.00\(4\)](#). Except upon written notice to the applicant, applications shall be processed within six months. [Tit. W, § 400.00\(4-a\)](#).

A firearms dealer license must describe the premises for which it is issued, and shall not be valid outside that location. [Tit. W, § 400.00\(7\)](#). 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. [Tit. W, § 400.00\(8\)](#).

Any person licensed as firearms dealer must keep a record of every transaction involving handguns, short-barreled shotguns/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. [Tit. W, § 400.00\(12\)](#). Before delivering a handgun, short-barreled shotgun/rifle, or assault weapon to any person, the licensee shall require the person to produce either a valid New York license to carry or possess a handgun, or proof of lawful authority as an exempt person pursuant to [Tit. P, § 265.20](#).” *Id.*

If applicable, the dealer must also remove and retain the attached coupon from the purchaser’s handgun license, and enter in the record book the date the license was issued, the license number, and the name of the licensing officer. *Id.* For exempt persons, the dealer must record the purchaser’s shield or other number, if any, assignment and department, and unit or agency. *Id.*

The original transaction report shall be forwarded to the division of state police within ten days of delivering a handgun, short-barreled shotgun/rifle, or assault weapon to any person, and the dealer must keep a duplicate. *Id.* The record book must be maintained on the premises described in the dealer’s license and shall be open at all reasonable hours for lawful inspection by law enforcement. *Id.*

Also, pursuant to the federal Brady Act, federally licensed firearms dealers must conduct background checks on prospective purchasers each time the dealer transfers a firearm. Buyers possessing a valid New York license to possess or carry a handgun are not subject to an additional background check at the point of sale. See the [New York Background Checks](#) section and the [ATF chart](#) outlining permits that qualify as Brady Act alternatives.

### Disclosure or Use of Information

There are no specific laws relating to the disclosure or use of information collected from licensees and applicants.

### Duration & Renewal

Once issued, a firearms dealer license “shall expire not more than three years after the date of issuance.” [Tit. W, § 400.00\(10\)](#). In counties having a population of less than 200,000 people, “photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at six year intervals.” *Id.*

## Gun Shows

[N.Y. Gen. Bus. Law Art. 39-DD, § 895.1](#) defines "gun show" as:

[A]n 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, or an event at which (a) twenty percent or more of the total number of exhibitors

are firearm exhibitors or (b) ten or more firearm exhibitors are participating or (c) a total of twenty-five or more pistols or revolvers are offered for sale or transfer or (d) a total of fifty or more firearms, rifles or shotguns are offered for sale or transfer. The term gun show shall include any building, structure or facility where firearms, rifles or shotguns are offered for sale or transfer and any grounds used in connection with the event.

New York requires that all firearms sales at gun shows be processed by a licensed dealer. [Art. 39-DD, §§ 896 and 897](#). 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. [Penal Law Tit W, § 400.00\(8\)](#).

Prospective purchasers are subject to the same background check process that applies to retail firearms transfers and the processing dealers shall record the transfer and retain the records for 10 years (see [New York Background Checks](#) section). [Gen. Bus. Law Art. 39-DD, §§ 896 and 897](#). Also, gun show operators shall 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." [Art. 39-DD, § 896](#). 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. *Id.*

## **Immunity Statutes/Manufacturer Litigation**

No relevant statutes currently exist.

## **Junk Guns/Saturday Night Specials**

The superintendent of state police is authorized to issue rules and regulations to prevent the manufacture and assembly of unsafe handguns, short-barreled shotguns/rifles, and assault weapons in New York, including specifications as to materials and parts used, proper storage and shipment, and minimum standards of quality control. [N.Y. Penal Law Tit. W, § 400.00\(12-a\)](#)

## **Large-Capacity Ammunition Magazines**

It is a class D felony to manufacture, transport, dispose of, or possess a large capacity ammunition feeding device, which [N.Y. Penal Law Tit. P, § 265.00\(23\)](#) defines as "a magazine, belt, drum, feed strip, or similar device, manufactured after September thirteenth, nineteen hundred ninety-four, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition." [Tit. P, § 265.02](#).

New York's high-capacity ammunition magazine law is almost identical to federal law. [18 U.S.C. 921\(a\)\(31\)](#) and [922\(w\)\(2\)](#).

## **Licensing of Gun Purchasers/Owners**

New York generally requires anyone wishing to possess a handgun to first obtain a license to possess a handgun. [New York Penal Law Tit. P, § 265.00 et seq.](#), and [Tit. W, §§ 400.00 and 400.01](#). Applications must be made in the city or county where the applicant "resides, is principally employed or has his principal place of business as merchant or storekeeper..." [Tit. W, § 400.00\(3\)](#). Current photographs and fingerprints must be supplied with the application to facilitate the background check process. *Id.* and [Tit. W, § 400.00\(4\)](#). Except upon written notice to the applicant, applications shall be processed within six months. [Tit. W, § 400.00\(4-a\)](#).

Once issued, the license shall include the licensee's photograph, "and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee." [Tit. W, § 400.00\(7\)](#). The license shall specify the weapon covered by caliber, make, model, manufacturer's name and serial number, and shall indicate if the handgun may be carried on the person or possessed in a particular location. *Id.* Purchasing additional handguns requires a license amendment. [Tit. W, § 400.00\(9\)](#).

### **Disclosure or Use of Information**

There are no specific laws relating to the disclosure or use of information collected from licensees and applicants.

### **Duration & Renewal**

Licenses are generally valid until revoked, but they have a fixed duration in New York City (3 years), and in Nassau,

Suffolk and Westchester counties (5 years). [Tit. W, § 400.00\(10\)](#).

### **Location Limits**

The license is valid throughout the state, except New York City, where additional rules apply. [Tit. W, § 400.00\(6\)](#).

### **Locking Devices**

No retail firearms dealer shall transfer any firearm without a gun locking device and a warning label (the later may either be affixed to the firearm or placed in the container in which the firearm is transferred). [New York Gen. Bus. Law Art. 26, § 396-ee\(1\)](#). The term "gun locking device" is defined by [Art. 26, § 396-ee\(1\)](#) 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. The division of state police shall develop and promulgate rules and regulations setting forth the specific devices or the minimum standards and criteria therefor which constitute an effective gun locking device.

In addition, retail firearms dealers shall, in the place where firearms are displayed or transferred to the purchaser, post a notice conspicuously stating in bold print that: "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." [Art. 26, § 396-ee\(2\)](#). This language must also be used for the warning label on each firearm. [Art. 26, § 396-ee\(1\)](#).

### **Minimum Age to Purchase/Possess**

Persons under the age of 16 generally may not possess any firearms or ammunition. [N.Y. Penal Law Tit. P, § 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 the 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, or otherwise qualified person. [Tit. P, §§ 265.20\(a\)\(7\) and 265.20\(a\)\(16\)](#).

A person must be at least 21 years of age to obtain a license to possess or carry a handgun (excluding honorably discharged U.S. military or New York national guard personnel). [Tit. W, § 400.00\(1\)\(a\)](#).

It is also illegal for any person to attempt to purchase a firearm who knows he or she is prohibited from doing so. [Tit. P, § 265.17](#).

### **One-Gun-A-Month**

No relevant statutes currently exist.

### **Personalized/Smart Guns**

No relevant statutes currently exist.

### **Secondary / Private Sales**

Gun transfers between unlicensed persons must be processed by a licensed firearms dealer (and the purchaser is subject to a background check) if the transfer occurs at a gun show. (See [New York Gun Shows](#) section). In addition, New York generally requires anyone wishing to possess a handgun to first obtain a license to possess a handgun. Otherwise, private firearms transfers are not subject to a background check requirement in New York (although federal purchaser prohibitions still apply; see [New York Background Checks](#) section).

However, [N.Y. Penal Law Tit. P, § 265.10\(7\)](#) states that, other than a wholesale dealer, gunsmith or dealer in firearms licensed pursuant to [Tit. W, § 400.00](#), any person lawfully in possession of a handgun, short-barreled shotgun/rifle, or assault weapon, who disposes of the same without first notifying in writing [the appropriate licensing officer], is guilty

of a class A misdemeanor.”

It is a class D felony for a person who is not authorized to possess a handgun, short-barreled shotgun/rifle, or assault weapon to either: (1) transfer it or large capacity ammunition feeding device to another person; or (2) possess it with the intent to sell it. [Tit. P, § 265.11](#). It is a class C felony for a person who is not authorized to possess a handgun, short-barreled shotgun/rifle, or assault weapon to transfer such a weapon to another person who is, or reasonably appears to be, less than nineteen years of age, and who is not licensed to possess such a weapon. [Tit. P, § 265.16](#).

## Registration of Guns

Any person licensed as firearms dealer must keep a record of every transaction involving handguns, short-barreled shotguns/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. [New York Penal Law Tit. W, § 400.00\(12\)](#). “Before delivering a handgun, short-barreled shotgun/rifle, or assault weapon to any person, the licensee shall require the person to produce either a valid New York license to carry or possess the same, or proof of lawful authority as an exempt person pursuant to [Tit. P, § 265.20](#).” *Id.*

If applicable, the dealer must also remove and retain the attached coupon from the purchaser’s handgun license, and enter in the record book the date the license was issued, the license number, and the name of the licensing officer. *Id.* For exempt persons, the dealer must record the purchaser’s shield or other number, if any, assignment and department, and unit or agency. *Id.*

The original transaction report shall be forwarded to the division of state police within ten days of delivering a handgun, short-barreled shotgun/rifle, or assault weapon to any person, and the dealer must keep a duplicate. *Id.* The record book must be maintained on the premises described in the dealer’s license and shall be open at all reasonable hours for lawful inspection by law enforcement. *Id.*

## Waiting Periods

Although there is no specific waiting period in New York, all handgun purchasers must obtain a license to possess or carry a handgun, and such licenses can take up to six months to process (or longer, upon written notice to the applicant). [New York Penal Law Tit. W, § 400.00\(4-a\)](#).