

Deputies Association
of the
County of Steuben



To the citizens of Steuben County,

As the Steuben County Deputy Sheriff's Association continues to monitor the growing crisis across New York State in regards to the NY SAFE Act of 2013, we are proud to announce that we have been joined by our fellow Steuben County Sheriff's Office – Corrections Division in our resolve to support Sheriff David V. Cole in his public stance on the new legislation. We are also now finding ourselves becoming even further dismayed at the process in which this bill was passed into law. As the Governor's Office has already publicly stated that the law needs to be amended, we find ourselves even more perplexed as to why a law of this magnitude would need to be amended only a week after it was passed. Could it be because this law was rushed through the legislative process to ensure its passage on the emotion of the recent national tragedies without the benefit of insight or intellect into the issues at hand?

The Governor's Office has also released the following website, <http://www.governor.ny.gov/2013/gun-reforms-faq> to try to clarify the issues surrounding the new legislation. After a review of the material present on this website, the website appears to fail to answer many of the questions that have flooded the Sheriff's Office over the past week. Questions such as "Does this law cover the components used in the reloading of ammunition, such as powder, primers and bullets?" While our initial response to this questions would be no because it is not specifically mentioned, we do not want to give the public official information we do not know to be factual. It has also become apparent that in the haste of passing this legislation there are no mechanisms in place for the law's enforcement.

The Deputies have been researching the genus of the new legislation and we feel it is important to understand the history behind the former "Assault Weapon" ban in New York State. The original New York State Law, which came into effect shortly after the passing of the Federal Assault Weapons Ban (AWB), or Public Safety and Recreational Firearms Use Protection Act, on September 13, 1994, was a carbon copy of the Federal Firearms Law in regards to assault weapons. New York State adopted the federal law to make the possession of such assault weapons not only a crime federally, but also a crime against the Penal Law of New York State. While the Federal Law was implemented with a "sunset" clause of ten years to study the effectiveness in curbing violent crimes, the New York State Law has no such provision. The original law only applied to weapons manufactured after the date of the ban's enactment. The Federal Assault Weapons Ban then expired on September 13, 2004, as part of the law's sunset provision.

With the history behind the New York State laws being known, and as we previously stated this issue surpasses just the Second Amendment Right to Keep and Bear Arms, we are now looking to the Tenth Amendment to the Constitution, the Reserved Rights of the States. The Tenth Amendment to the US Constitution was ratified as part of the Bill of Rights on December 15, 1791. It is the key amendment reinforcing the idea of a unified set of laws governing the United States and reserving those rights not mentioned specifically to the individual states. In other words, that unless the Constitution specifically gave a power to the federal government or denied it to the states, then it was reserved for the states. The Tenth Amendment to the Constitution states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people.

With this in mind, why is the State of New York passing legislation having to do with the people's rights to keep and bear arms when this right is specially addressed in the Constitution? It would appear to us that this

right *is not* reserved to the States to debate and this debate should be carried out at a national level in Washington and not in our State Capital in Albany. We feel that as citizens we must look to this new law, which goes far beyond the regulation of firearms, on its' face value as now an entire "class" of firearms and firearm magazines are now being made illegal to possess by a State, not Federal, government.

During our research into the creation of the new legislation we were also shocked to find that the original bill presented for review, S1422, to the New York State Senate, calls for rendering of all assault weapons permanently inoperable or surrendering the assault weapon to the appropriate law enforcement agency before April 14, 2014. This bill appears to have been referred to the Codes Committee on January 9, 2013 and is still in the legislative process. Does the new legislation override the original bill or is this bill still under consideration. This goes back to one of our original questions as to how do we, as law enforcement officials, enforce a law when we do not know who possesses these weapons that our government is now calling illegal? A common sense approach to this issue in the law enforcement community at this time seems to be the need to get these assault weapons register so the next progress can be in implementation of the surrender clause already being reviewed.

After reviewing the new laws, the Deputies Association is now wondering also if the assault weapons previously classified as illegal under the former "two feature" test are now legal under the "one feature" test if they are registered pursuant to the new legislation? It would appear as if an assault weapon that possesses at least one of these characteristics must be registered, even though no government agency can tell you how to register these weapon yet, but the registration provisions do not limit the weapon to just the one feature as in the previous law.

We also have to be mindful of U.S. v. Miller, which the United States Supreme Court heard and ruled on in 1939. In the decision of the Court, which can be applied specifically to the NY SAFE Act of 2013 in regards to the new definition of assault weapons, the court found that the keeping of bearing of such arms as so issued by the Federal government to the U.S. military, was explicitly protected by the Second Amendment. We find it irrational and illogical to think that a criminal's use of these types of weapons is now being used to deprive law abiding citizens their right to protect their homes, property and families.

The Deputies are going to continue to work with Sheriff David V. Cole and our surrounding law enforcement agencies to try to get a resolution to these new laws and any new "amendments" which are being discussed by our State Legislature. Many news articles have seemed to surface recently in regards to this growing issue and the Governor's Office is praising themselves for "being the first in the nation" to pass these laws in the wake of the recent tragedies. To us, all this new "first ground breaking legislation" seems to have accomplished is passing a set of laws that has no hopes in curbing gun or school violence.

Our hopes are that when this new legislation was being researched and discussed at the highest level of our state government, the true safety and welfare of the people of the State of New York was the primary consideration and not the political aspirations of a group of people or certain elected individuals. After all, don't the needs and rights of the many outweigh the needs of the few, or the one? The Deputies Association would also encourage all members of the public who stand behind us on this topic to sign Senator Kathleen Marchione's petition to have this new legislation repealed and replaced with new legislation at the following link:

<http://www.nysenate.gov/webform/stand-second-amendment-standing-new-york-state-senator-kathleen-marchione>