

Legislation: **The Dealer Restriction Bill**
New York Assembly Bill A1093

Status: [01/07/2009 referred to economic development]
[01/30/09 referred to codes]

Sponsors: Assemblywoman Amy Paulin, 88th Assembly district

Website: <http://assembly.state.ny.us/mem/?ad=088>

Action: Opposed, protest by letter, phone & petition.

Justification:

Firearms, rifles and shotguns are used to kill nearly 30,000 individuals in the United States every year, including 1,000 individuals in New York State alone. Additionally, there are 100,000 non-fatal injuries across the country. Therefore, the state of New York has a strong interest in reducing violence and crimes that involve the use of firearms and the illegal trafficking of firearms. Illegal guns obtained throughout the state end up in the hands of criminals, youth and violent individuals who use them to threaten, maim and kill. There is a thriving underground market for illegal firearms, largely driven by demand from drug gangs and other criminals. A highly efficient and continuous business practice exists in which firearms are moved from legal manufacture and sale to prohibited purchasers, making them illegal firearms. These rogue dealers funnel guns to the illegal market through a variety of channels. One of the most common means is to allow "straw purchases". **Although most gun dealers operate their businesses legally and responsibly, some gun dealers who are corrupt or maintain shoddy recordkeeping practices flood the streets with illegal weapons as a result of their unrestricted access to new gun inventory and the unwillingness of gun manufacturers to terminate their supply to these rogue dealers.** Current federal and state regulation has not curbed the business practice of illegal gun dealers. Current New York state laws governing firearm dealers are inadequate to prevent the diversion of firearms to the illegal marketplace. Additional protections are needed to enhance the state's efforts to reduce criminal activity in the state.

1. An act to amend Article 40 and sections 900 and 901 of the general business law and the penal law in relation to preventing the sale of firearms, rifles, and shotguns to criminals
2. Definitions. For the purposes of this article:
"Dealer" means any person, firm, partnership, corporation, or company who engages in the Business of purchasing, selling, keeping for sale, lending, leasing, or in any manner disposing of, any firearm, rifle, or shotgun.
3. "Gun show" means 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, or an event at which:
(a) twenty percent or more of the total number of exhibitors are firearm exhibitors;
(b) ten or more firearm exhibitors are participating;
(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.
4. "Retail dealer" means any dealer engaged in the retail business of selling firearms, rifles, or shotguns.

[Disclaimer: This summary or report is the author's interpretation of this issue, and is not intended as legal advice; no claim of accuracy is implied, and the reader is advised to seek specialized professional legal counsel on this matter.]

5. "Straw purchase" means the purchase, or attempt to purchase, by a person of a firearm, rifle, or shotgun for, on behalf of, or for the use of another person, knowing that it would be unlawful for such other person to possess such firearm, rifle, or shotgun, or an attempt to make such a purchase.
6. Every dealer shall adopt reasonable measures to prevent firearms, rifles, and shotguns from being diverted from the legal stream of commerce, intentionally or otherwise, for later sale, transfer, or disposal to individuals not legally entitled to purchase or possess such weapons. Such measures shall include, but need not be limited to, programs to eliminate sales to straw purchasers and to otherwise thwart illegal gun trafficking. Such programs will be developed by the superintendent of the state police.
7. **Every dealer shall carry insurance coverage against liability** for damage to property and for injury to or death of any person as a result of the sale, delivery, lease, or transfer of a firearm, rifle, or shotgun in amounts appropriate to its level of sales, but **no less than one million dollars for each incident of damage, injury, or death.**
8. Every dealer shall implement a security plan for securing firearms, rifles and shotguns, including firearms, rifles and shotguns in shipment. The plan must satisfy at least the following requirements:
 - a. Display cases shall be locked at all times except when removing a single firearm, rifle or shotgun to show a customer, and customers shall handle firearms, rifles or shotguns only under the direct supervision of an employee.
 - b. **All firearms, rifles and shotguns shall be secured**, other than during business hours, **in a locked fireproof safe or vault** in the licensee's business premises or in a similar secured and locked area.
 - c. Ammunition shall be stored separately from the firearms, rifles and shotguns and out of reach of the customers.
 - d. Every retail dealer shall exclude all persons under eighteen years of age from those portions of its premises where firearms, rifles, shotguns, or ammunition are stocked or sold, unless such person is accompanied by a parent or guardian.
 - e. Every retail dealer shall provide training to all employees and other personnel engaged in the retail sale of firearms, rifles, and shotguns relating to:
 1. The law governing firearm, rifle, and shotgun transfers by federal firearms licensees and individuals;
 2. How to recognize straw purchases and other attempts to purchase firearms, rifles, or shotguns illegally;
 3. How to teach consumers rules of gun safety, including but not limited to the safe handling and storage of firearms, rifles, and shotguns; and
 4. How to comply with provisions of section nine hundred seven of this article.
 5. No employee or agent of any retail dealer shall participate in the sale or disposition of firearms, rifles, or shotguns unless such person is at least twenty-one years of age and has first received the training required by this section.
9. Every retail dealer shall provide the transferee with a gun locking device, a copy of the safe storage warning notice, obtained the transferee's signature on a form promulgated by the superintendent certifying that the transferee has received the instruction and notice by this section, provided the transferee with a written record of the make, model, caliber or gauge, and serial number of each firearm enabling the transferee to accurately describe the weapon to law enforcement in the event that it is subsequently lost or stolen.
10. All firearms, rifles, and shotguns acquired but not yet disposed of must be accounted for through **an inventory check prepared once each month** and maintained in a secure location.
11. **All sales information**, including the serial numbers of firearms, rifles, and shotguns sold, dates of sale, **and identity of purchasers, shall be maintained and full access to documents related to the acquisition and disposition of firearms of shall be made available to government law enforcement agencies.**

[Disclaimer: This summary or report is the author's interpretation of this issue, and is not intended as legal advice; no claim of accuracy is implied, and the reader is advised to seek specialized professional legal counsel on this matter.]