

COUNTY OF SUFFOLK
NEW YORK



POLICE DEPARTMENT

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POLICE COMMISSIONER

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Dear New York State Dealer in Firearms:

The Pistol Licensing Bureau has received many inquiries regarding the legality of two recently released items; the Remington "Tac-14" and the Mossberg "Shockwave". Both of these items have the following features:

- A shotgun-style receiver that has never had a shoulder stock attached
- A "birds head" grip in lieu of a shoulder stock or pistol grip
- A 12 gauge smooth bore barrel less than 18 inches in length
- An overall length in excess of 26 inches
- A 5 round capacity
- A Pump action

According to the New York State Penal Law[PL], a "shotgun" is:

a weapon designed or redesigned, made or remade, and intended to be fired from the **shoulder** and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

PL §265(12). This definition clearly removes the "Tac-14" and the "Shockwave" from the definition of a "shotgun" under state law. Both items also appear to escape the PL §265.00(3) definition of a "firearm" as:

- (a) any pistol or revolver; or
- (b) a **shotgun** having one or more barrels less than eighteen inches in length; or
- (c) a rifle having one or more barrels less than sixteen inches in length; or
- (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than **twenty-six inches**

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While the items in question have barrels under 18 inches in length and a smooth bore, they are not “shotguns”, and would not, therefore, qualify as “firearms” under PL §265.00(3)(b). Similarly, they do not meet the definition of “any weapon made from...” under PL §265.00(3)(d) due to their overall length.

Definitions contained in the National Firearms Act are consistent with the above cited state statutes. A “shotgun” is defined as:

a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell

26 U.S.C. §5845(d). Since the items at issue fail to qualify as a “shotgun” under this statute, they then also fail to meet the definition under 26 U.S.C. §5845(a) which identifies a “firearm” as [in part]:

- (1) a **shotgun** having a barrel or barrels of less than 18 inches in length;
- (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than **26 inches** or a barrel or barrels of less than 18 inches in length;
- (3) a rifle having a barrel or barrels of less than 16 inches in length;
- (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;
- (5) any other weapon, as defined in subsection (e);

(e) The term “any other weapon” means any weapon or device **capable of being concealed on the person** from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

Although it appears that the items in question are capable of concealment upon a person, the Bureau of Alcohol, Tobacco, Firearms and Explosives has interpreted that term to include only those weapons with an overall length of less than 26 inches. Their interpretation has remained unchallenged for decades, and is based upon the legislative intent of the National Firearms Act. S.Rep. No. 1303, 86th Cong., 2d Sess (1960).

It is, therefore, our understanding of the law that the Remington “Tac-14” and the Mossberg “Shockwave” are similarly situated to pistol-grip shotguns and may be possessed in the State of New York without a license.