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NEW YORK STATE S.A.F.E. ACT

WARNING: Laws and their interpretations are in constant flux. This analysis is not intended as legal advice, it is not regularly updated, nor has it been approved by the DOJ or any federal, state, county, city, or other law enforcement agency or regulatory authority. Also, although this legal analysis concludes that the Kali Key complies with the New York S.A.F.E. Act, the product has not been formally approved by the DOJ or any federal, state, county, city, or other law enforcement agency or regulatory authority. It is the purchasers' or end users' responsibility to know the current firearm laws and regulations in their state, county, or city before installing the Kali Key. Please read this opinion carefully and in its entirety.

BACKGROUND:

New York State Penal Law Article 265, titled "Firearms and Other Dangerous Weapons", contains definitions of, and statutes proscribing, various weapons and conduct involving these weapons. In 2013, New York State amended this section pursuant to the S.A.F.E. Act, and has since added additional amendments thereto.

Under New York law, the terms "Firearm," "Rifle," "Shotgun," "Semiautomatic," and "Assault Weapon," have specific definitions:

Firearm means (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 is altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon; or (f) any other weapon that is not otherwise defined in this section containing any component that provides housing or a structure designed to hold or integrate any fire control component that is designed to or may readily be converted to expel a projectile by action of explosive. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm. (Antique firearm means any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade).

Rifle means 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 to fire only a single projectile through a rifled bore for each single pull of the trigger using either: (a) fixed metallic cartridge; or (b) each projectile and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, rifles include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fire a single projectile with each discharge, or loading, including muzzle loading rifles, flintlock rifles, and black powder rifles.

Shotgun means 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 to fire through a smooth or rifled bore either a number of ball shot or a single projectile for each single pull of the trigger using either: (a) a fixed shotgun shell; or (b) a projectile or number of ball shot and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, shotguns include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fires ball shot with each discharge, or loading, including muzzle loading shotguns, flintlock shotguns, and black powder shotguns.

Semiautomatic means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.

Assault Weapon means

- (a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one 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 thumbhole stock;
 - (iv) a second handgrip or a protruding grip that can be held by the non-trigger hand;
 - (v) a bayonet mount;
 - (vi) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;
 - (vii) a grenade launcher; or
- (b) a semiautomatic shotgun that has at least one of the following characteristics:
 - (i) a folding or telescoping stock;
 - (ii) a thumbhole stock;

- (iii) a second handgrip or protruding grip that can be held by the non-trigger hand;
 - (iv) a fixed magazine capacity in excess of seven rounds;
 - (v) 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 one of the following characteristics:
- (i) a folding or telescoping stock;
 - (ii) a thumbhole stock;
 - (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;
 - (iv) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;
 - (v) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
 - (vi) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;
 - (vii) a manufactured weight of fifty ounces or more when the pistol is unloaded; or
 - (viii) a semiautomatic version of an automatic rifle, shotgun or firearm;
- (d) a revolving cylinder shotgun;
- (e) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision twenty-two of section 265.00 of this chapter as added by chapter one hundred eighty-nine of the laws of two thousand and otherwise lawfully possessed pursuant to such chapter of the laws of two thousand prior to September fourteenth, nineteen hundred ninety-four;
- (f) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph in paragraph (a), (b) or (c) of this subdivision, possessed prior to the date of enactment of the chapter of the laws of two thousand thirteen which added this paragraph;
- (g) 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; [Emphasis added]** (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; or

- (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 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;
- (v) any weapon validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter.
- (vi) any firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof that is validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter.

ANALYSIS:

Based on the above definitions, when installed on a rifle, the Kali Key removes the firearm from the "semiautomatic" classification and excludes said firearm from the definition of "assault weapon."

Installation of the Kali Key removes a firearm from the definition of a "semiautomatic" because it prevents the firearm from being able to utilize "a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round." The Kali Key alters the functioning of direct impingement AR-15 style firearms by making it impossible for gases from the gas tube to enter the firearm's expansion chamber. Instead, the Kali Key, thanks to its patented "Kali Key gas key," diverts all cycling gases away from the firearm via the ejection port. The Kali Key thereby makes it impossible for any gas pressure to impart any force upon the bolt carrier group to cycle the carrier group rearward, which is essential for the semiautomatic functionality of the firearm. When the Kali Key is installed, the firearm's operation changes exclusively to a manual process: After firing a round, the shooter must manually pull back on the Kali Key's charging handle. This action extracts and ejects the spent casing. The shooter must then manually release or push the Kali Key forward. This manually loads the next cartridge into the chamber, making the firearm ready to fire again.

Because a Kali Key equipped firearm functions as a manually operated, bolt action firearm, it is excluded from the definition of an "assault weapon" as defined by the S.A.F.E. Act. Under the section defining "assault weapon," subdivision (g)(i), the term "assault weapon" specifically does not include "(i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever, or slide action."

Thus, a firearm using the Kali Key should not be considered a "semiautomatic" firearm, nor fall within the definition of an "assault weapon" as defined by the S.A.F.E. Act.

POTENTIAL BENEFITS:

- **Conversion:** Semiautomatic “assault weapons” can be made legal in New York State by the use of a Kali Key that will convert said firearm into a manually operated, bolt-action firearm. The S.A.F.E. ACT states that the definition of “assault weapon” “does not include: **any** [emphasis added] rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action.” The exclusion of “any” manually operated (bolt-action) firearm from the definition of an “assault weapon” applies also to those firearms that are otherwise listed by name as semiautomatic “assault weapons” if converted to a manually operated firearm via the use of a Kali Key.
- **Keep Your Features:** Once rendered a manually operated, bolt-action firearm by use of the Kali Key, the firearm is permitted to have any of the enumerated features otherwise prohibited on an “assault weapon”.
- **Purchasing New Firearms:** An assault weapon can no longer be purchased in New York, *even if the end-user intends to convert it immediately with a Kali Key*. However, if the purchaser can have the Kali Key installed *before* legally purchasing and taking possession of the firearm, then the end user would not be purchasing/receiving a prohibited firearm. Therefore, the New York purchaser/end-user *must* arrange to have the Kali Key installed in the firearm before the purchaser/end user receives the firearm in New York.
- **FFL Manufacturing and Conversions:** A Type 07 FFL (Manufacturer of Firearms Other Than Destructive Devices) may use the Kali Key to manufacture a new bolt-action AR-15 style firearm for sale within the State of New York so long as the firearm originates as a bolt-action firearm via the use of a Kali Key. An FFL may also modify its current/existing inventory of semiautomatic direct impingement AR-15 style firearms into bolt action firearms for sale within the State of New York so long as that current/existing inventory was purchased legally.
- **Legal Transfers:** The ownership and transfer of ownership of “assault weapons” is prohibited by the S.A.F.E. Act. The installation of the Kali Key, removing the firearm from the definition of an assault weapon, removes these restrictions, allowing the firearm to be legally transferable as a bolt-action rifle. Note that any new owner of a manually operated (Kali Key) firearm cannot lawfully convert said manually operated firearm into a semiautomatic “assault weapon.”
- **Semiautomatic Rifle License:** A semiautomatic rifle license is required to purchase or take ownership of a semiautomatic rifle on or after September 4, 2022. Also, starting September 4, 2022, the minimum age to purchase or take ownership of a semiautomatic rifle is 21. A Kali Key equipped firearm is a bolt action firearm. Therefore, because it is neither a semiautomatic firearm nor an “assault weapon,” no semiautomatic rifle license

or minimum age of 21 or above is required for the purchase of a Kali Key equipped firearm.

DISCLAIMER:

The S.A.F.E. Act does not state that modifications or conversions to remove firearms from the definition of an “assault weapon” must meet any permanence threshold. This topic is not mentioned in the act whatsoever. Still, state agencies may place their own thresholds and interpretations pertaining to this that are outside what is written in the law. As a result, it is highly recommended that the installation of the Kali Key be done with the use of a permanent threadlocker, or other permanent sealant so that upon inspection, the Kali Key is a permanent feature on the BCG.

Although (1) each Kali Key is conspicuously engraved with the words “Kali Key Bolt Action AR,” (2) visual inspection of the Kali Key’s “gas key” makes it readily apparent that the firearm does not have the necessary parts for semiautomatic functionality, and (3) Kali Key’s bolt action functionality has a significant, demonstrable presence on the internet for anyone to readily examine, neither Kali Key nor the attorney retained to author this legal opinion can guarantee that every law enforcement official will be as knowledgeable about firearms and the Kali Key as you, and Kali Key and the attorney retained to author this legal opinion are not responsible for any resulting legal or law enforcement interactions.

Finally, the Kali Key creator, manufacturer, seller, and attorney retained to author this legal opinion are not responsible to any purchaser or end user with regard to their understanding or interpretation of the current New York gun-related laws and regulations, nor are they responsible or liable in any way for any personal injury, death, or property damage from any use of the Kali Key, including but not limited to the inaccurate assembly, misuse, illegal use, or modification of such product. Each purchaser and end user assumes the risk associated with using or misusing such product; and further assumes the responsibility to abide by all federal, state, and local laws. All such products are sold on the condition that the Kali Key creator, manufacturer, or seller shall not be liable in any action for the arrest, accident, death, or injury in connection with the transportation, handling, storage, sale, or use of such product. Before purchasing such product, please consult your federal, state, and local laws and regulations. By purchasing, any purchaser or end user represents and warrants that such product will be used in a lawful manner and that they are of legal age and capacity.

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