
SUBSTITUTE SENATE BILL 5078

State of Washington**67th Legislature****2021 Regular Session**

By Senate Law & Justice (originally sponsored by Senators Lias, Kuderer, Darneille, Hunt, Nguyen, Pedersen, and Wilson, C.; by request of Attorney General)

1 AN ACT Relating to establishing firearms-related safety measures
2 to increase public safety by prohibiting the manufacture, possession,
3 distribution, importation, selling, offering for sale, purchasing, or
4 transfer of large capacity magazines, by allowing continued
5 possession of large capacity magazines limited to possession prior
6 to, and inheritance on or after, the effective date of this act,
7 subject to certain restrictions on the ability to sell or transfer
8 such large capacity magazines and permitting their possession only on
9 the owner's property or while engaged in lawful outdoor recreational
10 activities or use at a licensed shooting range, or when transporting
11 the large capacity magazine to or from these locations, and by
12 providing limited exemptions applicable to certain government
13 officers, agents, employees, or contractors, law enforcement and
14 corrections officers and military members, licensed firearms
15 manufacturers, dealers, and gunsmiths, and persons engaged in sport
16 shooting or permanently relinquishing a large capacity magazine to
17 law enforcement; amending RCW 9.41.010; adding a new section to
18 chapter 9.41 RCW; creating a new section; and prescribing penalties.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

20 NEW SECTION. **Sec. 1.** The legislature finds and declares that
21 gun violence is a threat to the public health and safety of

1 Washingtonians. Firearms equipped with large capacity magazines
2 increase casualties by allowing a shooter to keep firing for longer
3 periods of time without reloading. Large capacity magazines have been
4 used in all 10 of the deadliest mass shootings since 2009, and mass
5 shooting events from 2009 to 2018 where the use of large capacity
6 magazines caused twice as many deaths and 14 times as many injuries.
7 Documentary evidence following gun rampages, including the 2014
8 shooting at Seattle Pacific University, reveals many instances where
9 victims were able to escape or disarm the shooter during a pause to
10 reload, and such opportunities are necessarily reduced when large
11 capacity magazines are used. In addition, firearms equipped with
12 large capacity magazines account for an estimated 22 to 36 percent of
13 crime guns and up to 40 percent of crime guns used in serious violent
14 crimes. Based on this evidence, and on studies showing that mass
15 shooting fatalities declined during the 10-year period when the
16 federal assault weapon and large capacity magazine ban was in effect,
17 the legislature finds that restricting large capacity magazines is
18 likely to reduce gun deaths and injuries. The legislature further
19 finds that this is a well-calibrated policy based on evidence that
20 magazine capacity limits do not interfere with responsible, lawful
21 self-defense, and data self-reported by the gun industry showing that
22 the vast majority of handgun magazines hold 10 or fewer rounds. The
23 legislature further finds that the threats to public safety posed by
24 large capacity magazines are heightened given current conditions. Our
25 country is in the midst of a pandemic, economic recession, social
26 tensions, and reckonings over racial justice. The year 2020 has seen
27 a sharp increase in gun sales and gun violence, as well as fears over
28 gun violence and incidents of armed intimidation. In this volatile
29 atmosphere, the legislature declares that it is time to enhance
30 public health and safety by limiting the sale or transfer of large
31 capacity magazines in Washington. The legislature acknowledges that
32 in *Duncan v. Becerra*, the United States court of appeals for the
33 ninth circuit court found that California's law creating a blanket
34 ban on large capacity magazines was unconstitutional. The legislature
35 does not intend to create a blanket ban, but only to limit the
36 prospective sale or transfer of large capacity magazines, allowing
37 existing legal owners to retain large capacity magazines for the
38 purposes of defending themselves and their homes and using those
39 large capacity magazines in other authorized locations. The
40 legislature also finds that large capacity magazines holding in

1 excess of 17 rounds of ammunition do not come standard when sold with
2 firearms typically used for self-defense, but are dangerous and
3 unusual.

4 **Sec. 2.** RCW 9.41.010 and 2020 c 29 s 3 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Antique firearm" means a firearm or replica of a firearm not
9 designed or redesigned for using rim fire or conventional center fire
10 ignition with fixed ammunition and manufactured in or before 1898,
11 including any matchlock, flintlock, percussion cap, or similar type
12 of ignition system and also any firearm using fixed ammunition
13 manufactured in or before 1898, for which ammunition is no longer
14 manufactured in the United States and is not readily available in the
15 ordinary channels of commercial trade.

16 (2) "Barrel length" means the distance from the bolt face of a
17 closed action down the length of the axis of the bore to the crown of
18 the muzzle, or in the case of a barrel with attachments to the end of
19 any legal device permanently attached to the end of the muzzle.

20 (3) "Bump-fire stock" means a butt stock designed to be attached
21 to a semiautomatic firearm with the effect of increasing the rate of
22 fire achievable with the semiautomatic firearm to that of a fully
23 automatic firearm by using the energy from the recoil of the firearm
24 to generate reciprocating action that facilitates repeated activation
25 of the trigger.

26 (4) "Crime of violence" means:

27 (a) Any of the following felonies, as now existing or hereafter
28 amended: Any felony defined under any law as a class A felony or an
29 attempt to commit a class A felony, criminal solicitation of or
30 criminal conspiracy to commit a class A felony, manslaughter in the
31 first degree, manslaughter in the second degree, indecent liberties
32 if committed by forcible compulsion, kidnapping in the second degree,
33 arson in the second degree, assault in the second degree, assault of
34 a child in the second degree, extortion in the first degree, burglary
35 in the second degree, residential burglary, and robbery in the second
36 degree;

37 (b) Any conviction for a felony offense in effect at any time
38 prior to June 6, 1996, which is comparable to a felony classified as
39 a crime of violence in (a) of this subsection; and

1 (c) Any federal or out-of-state conviction for an offense
2 comparable to a felony classified as a crime of violence under (a) or
3 (b) of this subsection.

4 (5) "Curio or relic" has the same meaning as provided in 27
5 C.F.R. Sec. 478.11.

6 (6) "Dealer" means a person engaged in the business of selling
7 firearms at wholesale or retail who has, or is required to have, a
8 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
9 does not have, and is not required to have, a federal firearms
10 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
11 makes only occasional sales, exchanges, or purchases of firearms for
12 the enhancement of a personal collection or for a hobby, or sells all
13 or part of his or her personal collection of firearms.

14 (7) "Family or household member" has the same meaning as in RCW
15 26.50.010.

16 (8) "Felony" means any felony offense under the laws of this
17 state or any federal or out-of-state offense comparable to a felony
18 offense under the laws of this state.

19 (9) "Felony firearm offender" means a person who has previously
20 been convicted or found not guilty by reason of insanity in this
21 state of any felony firearm offense. A person is not a felony firearm
22 offender under this chapter if any and all qualifying offenses have
23 been the subject of an expungement, pardon, annulment, certificate,
24 or rehabilitation, or other equivalent procedure based on a finding
25 of the rehabilitation of the person convicted or a pardon, annulment,
26 or other equivalent procedure based on a finding of innocence.

27 (10) "Felony firearm offense" means:

28 (a) Any felony offense that is a violation of this chapter;

29 (b) A violation of RCW 9A.36.045;

30 (c) A violation of RCW 9A.56.300;

31 (d) A violation of RCW 9A.56.310;

32 (e) Any felony offense if the offender was armed with a firearm
33 in the commission of the offense.

34 (11) "Firearm" means a weapon or device from which a projectile
35 or projectiles may be fired by an explosive such as gunpowder.
36 "Firearm" does not include a flare gun or other pyrotechnic visual
37 distress signaling device, or a powder-actuated tool or other device
38 designed solely to be used for construction purposes.

39 (12) "Gun" has the same meaning as firearm.

1 (13) "Intimate partner" has the same meaning as provided in RCW
2 26.50.010.

3 (14) "Law enforcement officer" includes a general authority
4 Washington peace officer as defined in RCW 10.93.020, or a specially
5 commissioned Washington peace officer as defined in RCW 10.93.020.
6 "Law enforcement officer" also includes a limited authority
7 Washington peace officer as defined in RCW 10.93.020 if such officer
8 is duly authorized by his or her employer to carry a concealed
9 pistol.

10 (15) "Lawful permanent resident" has the same meaning afforded a
11 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
12 1101(a)(20).

13 (16) "Licensed collector" means a person who is federally
14 licensed under 18 U.S.C. Sec. 923(b).

15 (17) "Licensed dealer" means a person who is federally licensed
16 under 18 U.S.C. Sec. 923(a).

17 (18) "Loaded" means:

18 (a) There is a cartridge in the chamber of the firearm;

19 (b) Cartridges are in a clip that is locked in place in the
20 firearm;

21 (c) There is a cartridge in the cylinder of the firearm, if the
22 firearm is a revolver;

23 (d) There is a cartridge in the tube or magazine that is inserted
24 in the action; or

25 (e) There is a ball in the barrel and the firearm is capped or
26 primed if the firearm is a muzzle loader.

27 (19) "Machine gun" means any firearm known as a machine gun,
28 mechanical rifle, submachine gun, or any other mechanism or
29 instrument not requiring that the trigger be pressed for each shot
30 and having a reservoir clip, disc, drum, belt, or other separable
31 mechanical device for storing, carrying, or supplying ammunition
32 which can be loaded into the firearm, mechanism, or instrument, and
33 fired therefrom at the rate of five or more shots per second.

34 (20) "Manufacture" means, with respect to a firearm, the
35 fabrication or construction of a firearm.

36 (21) "Nonimmigrant alien" means a person defined as such in 8
37 U.S.C. Sec. 1101(a)(15).

38 (22) "Person" means any individual, corporation, company,
39 association, firm, partnership, club, organization, society, joint
40 stock company, or other legal entity.

1 (23) "Pistol" means any firearm with a barrel less than
2 (~~sixteen~~) 16 inches in length, or is designed to be held and fired
3 by the use of a single hand.

4 (24) "Rifle" means a weapon designed or redesigned, made or
5 remade, and intended to be fired from the shoulder and designed or
6 redesigned, made or remade, and intended to use the energy of the
7 explosive in a fixed metallic cartridge to fire only a single
8 projectile through a rifled bore for each single pull of the trigger.

9 (25) "Sale" and "sell" mean the actual approval of the delivery
10 of a firearm in consideration of payment or promise of payment.

11 (26) "Secure gun storage" means:

12 (a) A locked box, gun safe, or other secure locked storage space
13 that is designed to prevent unauthorized use or discharge of a
14 firearm; and

15 (b) The act of keeping an unloaded firearm stored by such means.

16 (27) "Semiautomatic assault rifle" means any rifle which utilizes
17 a portion of the energy of a firing cartridge to extract the fired
18 cartridge case and chamber the next round, and which requires a
19 separate pull of the trigger to fire each cartridge.

20 "Semiautomatic assault rifle" does not include antique firearms,
21 any firearm that has been made permanently inoperable, or any firearm
22 that is manually operated by bolt, pump, lever, or slide action.

23 (28) "Serious offense" means any of the following felonies or a
24 felony attempt to commit any of the following felonies, as now
25 existing or hereafter amended:

26 (a) Any crime of violence;

27 (b) Any felony violation of the uniform controlled substances
28 act, chapter 69.50 RCW, that is classified as a class B felony or
29 that has a maximum term of imprisonment of at least (~~ten~~) 10 years;

30 (c) Child molestation in the second degree;

31 (d) Incest when committed against a child under age fourteen;

32 (e) Indecent liberties;

33 (f) Leading organized crime;

34 (g) Promoting prostitution in the first degree;

35 (h) Rape in the third degree;

36 (i) Drive-by shooting;

37 (j) Sexual exploitation;

38 (k) Vehicular assault, when caused by the operation or driving of
39 a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner;

3 (l) Vehicular homicide, when proximately caused by the driving of
4 any vehicle by any person while under the influence of intoxicating
5 liquor or any drug as defined by RCW 46.61.502, or by the operation
6 of any vehicle in a reckless manner;

7 (m) Any other class B felony offense with a finding of sexual
8 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

9 (n) Any other felony with a deadly weapon verdict under RCW
10 9.94A.825;

11 (o) Any felony offense in effect at any time prior to June 6,
12 1996, that is comparable to a serious offense, or any federal or out-
13 of-state conviction for an offense that under the laws of this state
14 would be a felony classified as a serious offense; or

15 (p) Any felony conviction under RCW 9.41.115.

16 (29) "Short-barreled rifle" means a rifle having one or more
17 barrels less than (~~sixteen~~) 16 inches in length and any weapon made
18 from a rifle by any means of modification if such modified weapon has
19 an overall length of less than (~~twenty-six~~) 26 inches.

20 (30) "Short-barreled shotgun" means a shotgun having one or more
21 barrels less than (~~eighteen~~) 18 inches in length and any weapon
22 made from a shotgun by any means of modification if such modified
23 weapon has an overall length of less than (~~twenty-six~~) 26 inches.

24 (31) "Shotgun" means a weapon with one or more barrels, designed
25 or redesigned, made or remade, and intended to be fired from the
26 shoulder and designed or redesigned, made or remade, and intended to
27 use the energy of the explosive in a fixed shotgun shell to fire
28 through a smooth bore either a number of ball shot or a single
29 projectile for each single pull of the trigger.

30 (32) "Transfer" means the intended delivery of a firearm to
31 another person without consideration of payment or promise of payment
32 including, but not limited to, gifts and loans. "Transfer" does not
33 include the delivery of a firearm owned or leased by an entity
34 licensed or qualified to do business in the state of Washington to,
35 or return of such a firearm by, any of that entity's employees or
36 agents, defined to include volunteers participating in an honor
37 guard, for lawful purposes in the ordinary course of business.

38 (33) "Undetectable firearm" means any firearm that is not as
39 detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through
40 metal detectors or magnetometers commonly used at airports or any

1 firearm where the barrel, the slide or cylinder, or the frame or
2 receiver of the firearm would not generate an image that accurately
3 depicts the shape of the part when examined by the types of X-ray
4 machines commonly used at airports.

5 (34) "Unlicensed person" means any person who is not a licensed
6 dealer under this chapter.

7 (35) "Untraceable firearm" means any firearm manufactured after
8 July 1, 2019, that is not an antique firearm and that cannot be
9 traced by law enforcement by means of a serial number affixed to the
10 firearm by a federally licensed manufacturer or importer.

11 (36) "Large capacity magazine" means an ammunition feeding device
12 with the capacity to accept more than 17 rounds of ammunition, or any
13 conversion kit, part, or combination of parts, from which such a
14 device can be assembled if those parts are in possession of or under
15 the control of the same person, but shall not be construed to include
16 any of the following:

17 (a) An ammunition feeding device that has been permanently
18 altered so that it cannot accommodate more than 17 rounds of
19 ammunition;

20 (b) A 22 caliber tube ammunition feeding device; or

21 (c) A tubular magazine that is contained in a lever-action
22 firearm.

23 NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW
24 to read as follows:

25 (1) No person in this state may manufacture, possess, distribute,
26 import, transfer, sell, offer for sale, purchase, or otherwise
27 transfer any large capacity magazine, except as authorized in this
28 section.

29 (2) Subsection (1) of this section does not apply to any of the
30 following:

31 (a) The possession of a large capacity magazine by a person who
32 legally possessed the large capacity magazine before the effective
33 date of this section. Legal possession is presumed where a person can
34 provide a photo of the person with the large capacity magazine and
35 the photo can be shown to have been taken prior to the effective date
36 of this section. A person who legally possesses a large capacity
37 magazine under this subsection is subject to the provisions of
38 subsection (3) of this section;

1 (b) The possession of a large capacity magazine by a person who,
2 on or after the effective date of this section, acquires possession
3 of the large capacity magazine by operation of law upon the death of
4 a former owner who was in legal possession of the large capacity
5 magazine, provided the person in possession of the large capacity
6 magazine can establish such provenance. Legal possession of the
7 former owner is presumed where a person can provide a photo of the
8 former owner with the large capacity magazine and the photo can be
9 shown to have been taken prior to the effective date of this section.
10 A person who legally possesses a large capacity magazine under this
11 subsection is subject to the provisions of subsection (3) of this
12 section;

13 (c) Any government officer, agent, or employee, or any government
14 contractor hired to provide firearms training to law enforcement
15 officers, while acting within the scope of official duties, if
16 authorized to acquire or possess a large capacity magazine in
17 connection with official duties;

18 (d) The manufacture, offer for sale, sale, importation, or
19 transfer of a large capacity magazine by a licensed firearms
20 manufacturer for the purposes of sale to any branch of the armed
21 forces of the United States or the state of Washington, or to a law
22 enforcement agency in this state for use by that agency or its
23 employees for law enforcement purposes;

24 (e) The possession, offer for sale, sale, importation, or
25 transfer of a large capacity magazine by a dealer that is properly
26 licensed under federal and state law for the purpose of sale to any
27 branch of the armed forces of the United States or the state of
28 Washington, or to a law enforcement agency in this state for use by
29 that agency or its employees for law enforcement purposes;

30 (f) The possession, offer for sale, sale, importation, or
31 transfer of a large capacity magazine by a dealer that is properly
32 licensed under federal and state law where the dealer acquires the
33 large capacity magazine from a person legally authorized to possess
34 or transfer the large capacity magazine for the purpose of selling or
35 transferring the large capacity magazine to a person who does not
36 reside in this state;

37 (g) The transfer to, and possession of, a legally possessed large
38 capacity magazine by a federally licensed gunsmith for the purposes
39 of service or repair, and the return of the large capacity magazine
40 to the lawful owner;

1 (h) Law enforcement officers of this or another state, or state
2 or local corrections officers, while acting within the scope of
3 official duties, including authorized possession while not on duty,
4 if authorized to acquire or possess a large capacity magazine in
5 connection with official duties;

6 (i) Members of the armed forces of the United States or the state
7 of Washington, or of the national guard or military reserves, while
8 acting within the scope of official duties, if authorized to acquire
9 or possess a large capacity magazine in connection with official
10 duties;

11 (j) Any persons while otherwise lawfully engaged in shooting at a
12 duly licensed, lawfully operated shooting range; or

13 (k) The possession or transfer of a large capacity magazine for
14 the purpose of permanently relinquishing it to a law enforcement
15 agency in this state. A large capacity magazine relinquished to a law
16 enforcement agency under this subsection must be destroyed.

17 (3) A person who lawfully possesses a large capacity magazine
18 under subsection (2)(a) and (b) of this section must comply with the
19 following:

20 (a) The person shall not sell or transfer the magazine to any
21 other person in this state other than to a licensed dealer, to a
22 federally licensed gunsmith for the purpose of service or repair, or
23 to a law enforcement agency for the purpose of permanently
24 relinquishing the large capacity magazine; and

25 (b) The person shall possess the large capacity magazine only on
26 the property owned or immediately controlled by the person, while
27 engaged in the legal use of the large capacity magazine at a duly
28 licensed shooting range, while engaged in a lawful outdoor
29 recreational activity such as hunting, or while traveling to or from
30 these locations for the purpose of engaging in the legal use of the
31 large capacity magazine, provided that the large capacity magazine is
32 stored unloaded and in a separate locked container during transport.

33 (4) A person who violates this section is guilty of a gross
34 misdemeanor punishable under chapter 9A.20 RCW.

--- END ---