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SENATE BILL 5050

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Frockt, Ranker, Kuderer, Wellman, Saldaña, Lias, Darneille, Chase, and Cleveland; by request of Attorney General

Read first time 01/11/17. Referred to Committee on Law & Justice.

1            AN ACT Relating to assault weapons and large capacity magazines;  
2 amending RCW 9.41.010; and adding a new section to chapter 9.41 RCW.

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

4            **Sec. 1.** RCW 9.41.010 and 2015 c 1 s 2 (Initiative Measure No.  
5 594) are each amended to read 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) "Crime of violence" means:

1 (a) Any of the following felonies, as now existing or hereafter  
2 amended: Any felony defined under any law as a class A felony or an  
3 attempt to commit a class A felony, criminal solicitation of or  
4 criminal conspiracy to commit a class A felony, manslaughter in the  
5 first degree, manslaughter in the second degree, indecent liberties  
6 if committed by forcible compulsion, kidnapping in the second degree,  
7 arson in the second degree, assault in the second degree, assault of  
8 a child in the second degree, extortion in the first degree, burglary  
9 in the second degree, residential burglary, and robbery in the second  
10 degree;

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

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

17 (4) "Dealer" means a person engaged in the business of selling  
18 firearms at wholesale or retail who has, or is required to have, a  
19 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
20 does not have, and is not required to have, a federal firearms  
21 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person  
22 makes only occasional sales, exchanges, or purchases of firearms for  
23 the enhancement of a personal collection or for a hobby, or sells all  
24 or part of his or her personal collection of firearms.

25 (5) "Family or household member" means "family" or "household  
26 member" as used in RCW 10.99.020.

27 (6) "Felony" means any felony offense under the laws of this  
28 state or any federal or out-of-state offense comparable to a felony  
29 offense under the laws of this state.

30 (7) "Felony firearm offender" means a person who has previously  
31 been convicted or found not guilty by reason of insanity in this  
32 state of any felony firearm offense. A person is not a felony firearm  
33 offender under this chapter if any and all qualifying offenses have  
34 been the subject of an expungement, pardon, annulment, certificate,  
35 or rehabilitation, or other equivalent procedure based on a finding  
36 of the rehabilitation of the person convicted or a pardon, annulment,  
37 or other equivalent procedure based on a finding of innocence.

38 (8) "Felony firearm offense" means:

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

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

1 (c) A violation of RCW 9A.56.300;  
2 (d) A violation of RCW 9A.56.310;  
3 (e) Any felony offense if the offender was armed with a firearm  
4 in the commission of the offense.  
5 (9) "Firearm" means a weapon or device from which a projectile or  
6 projectiles may be fired by an explosive such as gunpowder.  
7 (10) "Gun" has the same meaning as firearm.  
8 (11) "Law enforcement officer" includes a general authority  
9 Washington peace officer as defined in RCW 10.93.020, or a specially  
10 commissioned Washington peace officer as defined in RCW 10.93.020.  
11 "Law enforcement officer" also includes a limited authority  
12 Washington peace officer as defined in RCW 10.93.020 if such officer  
13 is duly authorized by his or her employer to carry a concealed  
14 pistol.  
15 (12) "Lawful permanent resident" has the same meaning afforded a  
16 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
17 1101(a)(20).  
18 (13) "Licensed dealer" means a person who is federally licensed  
19 under 18 U.S.C. Sec. 923(a).  
20 (14) "Loaded" means:  
21 (a) There is a cartridge in the chamber of the firearm;  
22 (b) Cartridges are in a clip that is locked in place in the  
23 firearm;  
24 (c) There is a cartridge in the cylinder of the firearm, if the  
25 firearm is a revolver;  
26 (d) There is a cartridge in the tube or magazine that is inserted  
27 in the action; or  
28 (e) There is a ball in the barrel and the firearm is capped or  
29 primed if the firearm is a muzzle loader.  
30 (15) "Machine gun" means any firearm known as a machine gun,  
31 mechanical rifle, submachine gun, or any other mechanism or  
32 instrument not requiring that the trigger be pressed for each shot  
33 and having a reservoir clip, disc, drum, belt, or other separable  
34 mechanical device for storing, carrying, or supplying ammunition  
35 which can be loaded into the firearm, mechanism, or instrument, and  
36 fired therefrom at the rate of five or more shots per second.  
37 (16) "Nonimmigrant alien" means a person defined as such in 8  
38 U.S.C. Sec. 1101(a)(15).

1 (17) "Person" means any individual, corporation, company,  
2 association, firm, partnership, club, organization, society, joint  
3 stock company, or other legal entity.

4 (18) "Pistol" means any firearm with a barrel less than sixteen  
5 inches in length, or is designed to be held and fired by the use of a  
6 single hand.

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

12 (20) "Sale" and "sell" mean the actual approval of the delivery  
13 of a firearm in consideration of payment or promise of payment.

14 (21) "Serious offense" means any of the following felonies or a  
15 felony attempt to commit any of the following felonies, as now  
16 existing or hereafter amended:

17 (a) Any crime of violence;

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

21 (c) Child molestation in the second degree;

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

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) Drive-by shooting;

28 (j) Sexual exploitation;

29 (k) Vehicular assault, when caused by the operation or driving of  
30 a vehicle by a person while under the influence of intoxicating  
31 liquor or any drug or by the operation or driving of a vehicle in a  
32 reckless manner;

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

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

39 (n) Any other felony with a deadly weapon verdict under RCW  
40 9.94A.825;

1 (o) Any felony offense in effect at any time prior to June 6,  
2 1996, that is comparable to a serious offense, or any federal or out-  
3 of-state conviction for an offense that under the laws of this state  
4 would be a felony classified as a serious offense; or

5 (p) Any felony conviction under RCW 9.41.115.

6 (22) "Short-barreled rifle" means a rifle having one or more  
7 barrels less than sixteen inches in length and any weapon made from a  
8 rifle by any means of modification if such modified weapon has an  
9 overall length of less than twenty-six inches.

10 (23) "Short-barreled shotgun" means a shotgun having one or more  
11 barrels less than eighteen inches in length and any weapon made from  
12 a shotgun by any means of modification if such modified weapon has an  
13 overall length of less than twenty-six inches.

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

20 (25) "Transfer" means the intended delivery of a firearm to  
21 another person without consideration of payment or promise of payment  
22 including, but not limited to, gifts and loans.

23 (26) "Unlicensed person" means any person who is not a licensed  
24 dealer under this chapter.

25 (27) "Assault weapon" means:

26 (a) A semiautomatic rifle that has the capacity to accept a  
27 detachable magazine and has one or more of the following:

28 (i) A pistol grip that protrudes conspicuously beneath the action  
29 of the weapon;

30 (ii) A thumbhole stock;

31 (iii) A folding or telescoping stock;

32 (iv) A second handgrip or a protruding grip that can be held by  
33 the nontrigger hand;

34 (v) A flash suppressor, muzzle break, muzzle compensator, or  
35 threaded barrel designed to accommodate a flash suppressor, muzzle  
36 break, or muzzle compensator;

37 (vi) A grenade launcher or flare launcher;

38 (b) A semiautomatic pistol, or a semiautomatic, centerfire, or  
39 rimfire rifle with a fixed magazine, that has the capacity to accept  
40 more than ten rounds of ammunition;

1 (c) A semiautomatic pistol that has the capacity to accept a  
2 detachable magazine and has one or more of the following:

3 (i) Any feature capable of functioning as a protruding grip that  
4 can be held by the nontrigger hand;

5 (ii) A threaded barrel, capable of accepting a flash suppressor,  
6 forward handgrip, or silencer;

7 (iii) A shroud attached to the barrel, or that partially or  
8 completely encircles the barrel, allowing the bearer to hold the  
9 firearm with the nontrigger hand without being burned, but excluding  
10 a slide that encloses the barrel; or

11 (iv) The capacity to accept a detachable magazine at any location  
12 outside of the pistol grip;

13 (d) A semiautomatic, centerfire, or rimfire rifle that has an  
14 overall length of less than thirty inches;

15 (e) A semiautomatic shotgun that has both of the following:

16 (i) A pistol grip that protrudes conspicuously beneath the action  
17 of the weapon, thumbhole stock, or vertical handgrip;

18 (ii) A folding or telescoping stock; or

19 (iii) An ability to accept a detachable magazine;

20 (f) A shotgun with a revolving cylinder; or

21 (g) A conversion kit, part, or combination of parts, from which  
22 an assault weapon can be assembled if those parts are in the  
23 possession or under the control of the same person.

24 "Assault weapon" does not include antique firearms, any firearm  
25 that has been made permanently inoperable, or any firearm that is  
26 manually operated by bolt, pump, lever, or slide action.

27 (28) "Detachable magazine" means an ammunition feeding device  
28 that can be loaded or unloaded while detached from a firearm and  
29 readily inserted into a firearm.

30 (29) "Large capacity magazine" means an ammunition feeding device  
31 with the capacity to accept more than ten rounds of ammunition, or  
32 any conversion kit, part, or combination of parts, from which such a  
33 device can be assembled if those parts are in the possession or under  
34 the control of the same person, but shall not be construed to include  
35 any of the following:

36 (a) An ammunition feeding device that has been permanently  
37 altered so that it cannot accommodate more than ten rounds of  
38 ammunition;

39 (b) A twenty-two caliber tube ammunition feeding device; or

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

3       (30) "Secure gun storage" means a safe, gun safe, gun case, lock  
4 box, or other device that is designed to be or can be used to store a  
5 firearm and that is designed to be unlocked only by means of a key,  
6 combination, or other similar means, and that is constructed of such  
7 quality workmanship and material that it cannot be pried open or  
8 easily removed or defeated.

9       NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW  
10 to read as follows:

11       (1) No person in this state may manufacture, possess, distribute,  
12 import, transfer, sell, offer for sale, purchase, or otherwise  
13 transfer any assault weapon or large capacity magazine except as  
14 authorized in this section.

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

17       (a) The possession of an assault weapon or large capacity  
18 magazine by a person who legally possessed the assault weapon or  
19 large capacity magazine on the effective date of this section, or  
20 possession of an assault weapon or large capacity magazine by a  
21 person who, on or after the effective date of this section, acquires  
22 possession of the assault weapon or large capacity magazine by  
23 operation of law upon the death of the former owner who was in legal  
24 possession of the assault weapon or large capacity magazine, provided  
25 the person in possession of the assault weapon or large capacity  
26 magazine can establish such provenance. A person who legally  
27 possesses an assault weapon or large capacity magazine under this  
28 subsection (2)(a) may not sell or transfer the assault weapon to any  
29 other person in this state other than to a licensed dealer, to a  
30 federally licensed gun smith for the purpose of service or repair, or  
31 to a law enforcement agency for the purpose of permanently  
32 relinquishing the assault weapon or large capacity magazine;

33       (b) Any government officer, agent, or employee, member of the  
34 armed forces of the United States or the state of Washington, or law  
35 enforcement officer, to the extent that such person is otherwise  
36 authorized to acquire or possess an assault weapon or large capacity  
37 magazine and does so while acting within the scope of his or her  
38 duties;

1 (c) The manufacture, offering for sale, sale, importation, or  
2 transfer of an assault weapon or large capacity magazine by a  
3 licensed firearms manufacturer for the purposes of sale to any branch  
4 of the armed forces of the United States or the state of Washington,  
5 or to a law enforcement agency in this state for use by that agency  
6 or its employees;

7 (d) The possession, offering for sale, sale, importation, or  
8 transfer of an assault weapon or large capacity magazine by a dealer  
9 that is properly licensed under federal and state law for the purpose  
10 of sale to any branch of the armed forces of the United States or the  
11 state of Washington, or to a law enforcement agency in this state for  
12 use by that agency or its employees for law enforcement purposes;

13 (e) The possession, offering for sale, sale, importation, or  
14 transfer of an assault weapon or large capacity magazine by a dealer  
15 that is properly licensed under federal and state law where the  
16 dealer acquires the assault weapon or large capacity magazine from a  
17 person legally authorized to possess or transfer the assault weapon  
18 or large capacity magazine under (a) of this subsection for the  
19 purpose of selling or transferring the assault weapon or large  
20 capacity magazine to a person who does not reside in this state;

21 (f) The transfer to and possession of a legally possessed assault  
22 weapon or large capacity magazine by a federally licensed gunsmith  
23 for the purposes of service or repair, and the return of the assault  
24 weapon or large capacity magazine to the lawful owner;

25 (g) The possession, offering for sale, sale, importation, or  
26 transfer of an unloaded assault weapon for the purpose of permanently  
27 relinquishing it to a law enforcement agency in this state;

28 (h) The importation or possession of an assault weapon or large  
29 capacity magazine for the purpose of lawfully participating in a  
30 sporting event officially sanctioned by a club or organization  
31 established in whole or in part for the purpose of sponsoring sport  
32 shooting events;

33 (i) The possession, importation, purchase, or transfer of an  
34 assault weapon or large capacity magazine by marshals, sheriffs,  
35 prison or jail wardens or their deputies, or other law enforcement  
36 officers of this or another state while acting within the scope of  
37 their duties, including such possession while not on duty, but  
38 specifically authorized by command staff and necessary for the  
39 performance of such duties;

1 (j) The possession of an assault weapon or large capacity  
2 magazine by law enforcement officers retired for service or physical  
3 disabilities, when the assault weapon or large capacity magazine in  
4 question was acquired as part of the officer's separation from  
5 service;

6 (k) Members of the armed forces of the United States or of the  
7 national guard or organized services, when on duty;

8 (l) Officers or employees of the United States duly authorized to  
9 possess assault weapons or large capacity magazines;

10 (m) Any persons lawfully engaged in shooting at a duly licensed,  
11 lawfully operated shooting range; or

12 (n) The possession or transfer of an unloaded assault weapon or  
13 large capacity magazine for the purpose of permanently relinquishing  
14 it to a law enforcement agency in this state. An assault weapon or  
15 large capacity magazine relinquished to a law enforcement agency  
16 under this subsection must be destroyed.

17 (3) In order to continue to possess an assault weapon or large  
18 capacity magazine that was legally possessed on the effective date of  
19 this section, the person possessing the assault weapon or large  
20 capacity magazine shall:

21 (a) Store the assault weapon or large capacity magazine in a  
22 secure gun storage; and

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

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

35 NEW SECTION. **Sec. 3.** If any provision of this act or its  
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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