

# HOUSE BILL REPORT

## HB 1068

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**As Reported by House Committee On:**  
Civil Rights & Judiciary

**Title:** An act relating to high capacity magazines.

**Brief Description:** Concerning high capacity magazines.

**Sponsors:** Representatives Valdez, Jenkins, Kilduff, Stonier, Pellicciotti, Orwall, Stanford, Slatter, Kloba, Peterson, Ryu, Appleton, Macri, Cody, Bergquist, Doglio, Robinson, Pollet, Senn, Frame and Walen; by request of Attorney General.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 1/22/19, 2/1/19 [DPS].

**Brief Summary of Substitute Bill**

- Makes it unlawful for a person to manufacture, possess, distribute, import, transfer, sell, offer for sale, purchase, or otherwise transfer a large capacity magazine, except as specifically authorized.
- Allows a person who legally possessed a large capacity magazine on the effective date of the act, or a person who inherits a legally possessed large capacity magazine, to continue to possess the large capacity magazine subject to certain restrictions.
- Establishes a number of exemptions from the prohibitions relating to large capacity magazines for certain persons and entities.

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**HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Jenkins, Chair; Thai, Vice Chair; Goodman, Hansen, Kilduff, Kirby, Orwall, Valdez and Walen.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Shea and Ybarra.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Edie Adams (786-7180).

**Background:**

Washington law does not impose regulations relating to ammunition or ammunition magazines, aside from a requirement that firearms dealers must obtain a license to sell ammunition. In 1994 Congress enacted a ban on the manufacture, transfer, and possession of assault weapons and large capacity ammunition feeding devices capable of holding more than 10 rounds of ammunition, but exempted assault weapons and large capacity ammunition feeding devices that were manufactured before the law became effective. This law was subject to a sunset provision and expired in 2004.

Some states have adopted laws that prohibit or place restrictions on large capacity magazines, typically defined as magazines capable of accepting more than 10 rounds of ammunition; although, in some states the limit is 15 rounds. Some of these state laws completely ban the manufacture, transfer, or possession of large capacity magazines while others exempt large capacity magazines that were possessed prior to the law's effective date.

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**Summary of Substitute Bill:**

A "large capacity magazine" is defined as an ammunition feeding device with the capacity to accept more than 15 rounds of ammunition, or a conversion kit or parts from which the device may be assembled if in the possession of the same person. "Large capacity magazine" does not include: an ammunition feeding device that has been permanently altered so that it cannot accept more than 15 rounds of ammunition; a .22 caliber tube ammunition feeding device; or a tubular magazine contained in a lever-action firearm.

A person may not manufacture, possess, distribute, import, transfer, sell, offer for sale, purchase, or otherwise transfer a large capacity magazine except as specifically authorized. A violation is a gross misdemeanor offense.

The offense does not apply to possession of large capacity magazines by a person who legally possessed the large capacity magazine on the effective date of the act, or a person who acquires possession of the large capacity magazine by inheritance from a person who legally owned the large capacity magazine. The following restrictions apply to persons who legally possess a large capacity magazine under these circumstances:

- The large capacity magazine may not be sold or transferred to any other person in Washington other than a licensed dealer, a licensed gunsmith for purposes of service or repair, or a law enforcement agency for purposes of permanent relinquishment of the large capacity magazine.
- The large capacity magazine may be possessed only on property owned or immediately controlled by the person, while engaged in the use of the large capacity magazine at a licensed firing range, while engaged in a lawful outdoor activity such as hunting, or while traveling to or from these locations.

In addition, the offense does not apply to any of the following:

- government officers, agents, or employees, members of the armed forces, or law enforcement officers, while acting within the scope of their duties;
- manufacture, sale, importation, or transfer of a large capacity magazine by a licensed manufacturer for the purposes of sale to the armed forces, or to a law enforcement agency in this state for use by that agency or its employees;
- possession, offering for sale, sale, importation, or transfer of a large capacity magazine by a licensed dealer for the purpose of sale to the armed forces of the United States or Washington, or to a law enforcement agency in this state for use for law enforcement purposes;
- possession, offering for sale, sale, importation, or transfer of a large capacity magazine by a licensed dealer if it is acquired from a person authorized to possess or transfer the large capacity magazine for the purpose of transferring it to a person who does not reside in this state;
- transfer to and possession of a legally possessed large capacity magazine by a licensed gunsmith for purposes of service or repair, and return of the large capacity magazine to the lawful owner;
- possession, offering for sale, sale, importation, or transfer of a large capacity magazine for the purpose of relinquishing it to a law enforcement agency;
- importation or possession of a large capacity magazine for the purpose of lawfully participating in an officially sanctioned sporting event;
- possession, importation, purchase, or transfer of a large capacity magazine by marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this or another state while acting within the scope of their duties, including while not on duty;
- possession by law enforcement officers retired for service or physical disabilities, if acquired as part of the officer's separation from service;
- members of the armed forces of the United States or of the National Guard or organized services, when on duty;
- officers or employees of the United States duly authorized to possess large capacity magazines;
- persons engaged in shooting at a licensed, lawfully operated shooting range; or
- possession or transfer of a large capacity magazine for the purpose of permanently relinquishing it to a law enforcement agency in this state.

**Substitute Bill Compared to Original Bill:**

Large capacity magazines are those capable of accepting more than 15 rounds of ammunition (rather than 10 rounds). The exemption for possession by law enforcement officers and prison and jail wardens and their deputies is revised to remove the requirement that the possession be specifically authorized by command staff and necessary for the performance of such duties.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There have been 28 mass shootings in the country in the last 5 years alone, many of which involved the use of large capacity magazines resulting in large numbers of deaths and injuries. Currently eight states and the District of Columbia limit large capacity magazines, and it is time for Washington to join them. These laws have been challenged, and four federal Court of Appeals circuits have upheld their constitutionality. The Supreme Court has allowed them to remain in effect by declining to take those cases for review. The bill grandfathers current owners so they can continue to possess large capacity magazines and creates a number of exemptions for law enforcement, service members, and recreational shooting and hunting purposes.

This bill will promote public safety. There is a long history of prohibiting dangerous weapons in our state and nation. Large capacity magazines have been used to cause high death and injury rates in many mass shootings. At the Freeman High School shooting, if the shooter's rifle had not jammed there likely would have been many more injured or dead students. The loss of a family member from gun violence leaves families broken. In the Santa Barbara incident, a dear niece was killed. It took the shooter only a few seconds to shoot her and two of her sorority sisters at close range. If the shooter had not had a large capacity magazine, she might still be with her family. Survivors of gun violence have to relive their fear with each new incident. It is hard to talk about tragedy in such stark terms, but firing rate and survival rate are linked, and the state needs to find ways to reduce the body count.

The defining factor for youth of today is the sad reality of knowing gun violence too well. They live in a world where twice as many students die in classrooms as in a war zone and in a country where someone is killed by a gun every 15 minutes. There are reasonable laws that can change the reality of gun violence and save lives. The state should make it harder for firearms and the accessories that make them even more deadly to fall into the wrong hands. No right is absolute and no right is worth the lives of our young people.

This bill is important to help make our streets safer for first responders. There have been too many funerals for fallen officers. There are far too many illegal guns on the streets; just last year Seattle confiscated 1,408 firearms. Research shows that 135 percent more people are shot and 57 percent more people are killed when large capacity magazines are used. This is the firearm hardware bill the Legislature should support. What differentiates military use of firearms is the ability to fire long strings of shots in rapid succession, and large capacity magazines are the key enabler of that capability. These magazines are not necessary for self-defense purposes. The average number of shots fired in self-defense is two according to data from the National Rifle Association. In a hostile environment, sustained rapid fire becomes indiscriminate. In a civilian context this puts people at risk.

(Opposed) The magazines banned by this bill are commonly used for self-defense weapons. Generally 15 rounds is a standard capacity, not a high capacity. So-called large capacity magazines make up about half of the magazines possessed in the country. There are

hundreds of millions of these magazines, and they are commonly owned by constituents in this state. Large capacity magazines are grandfathered, but the ability to carry them for self-defense outside of the home is not. This bill will not impact crime. It will only undermine the ability of honest citizens to defend themselves.

The bill dangerously takes away protections for women. A woman's right to own firearms levels the fight between her and her attacker and allows her to protect her life. It may take more than 10 rounds of ammunition to stop a threat, so the bill puts women at risk. Women do not want to become a crime statistic. Punish the criminals and not law abiding women who just want to protect themselves. The bill puts law enforcement at risk because the 10-round limit inhibits their ability to protect themselves. The bill does not provide public safety. The Supreme Court has affirmed that there is no duty for police to respond when a person calls 911, so people have to protect themselves. This bill eliminates the public's ability to defend themselves.

The state cannot legislate evil intent, morality, and human decency. This bill takes the wrong approach by trying to solve a demand-side problem by shifting the supply curve. Less than 2 percent of firearms used in felonies were purchased commercially. The bill focuses efforts on pursuing those 2 percent while ignoring the 98 percent of firearms used by criminals. Nobody can show an instance where a magazine limitation ended violence. Nobody can say that citizens are safer because criminals obey magazine laws.

The bill is being sold as preventative, but it only serves to punish law abiding citizens for the acts of criminals. The state should focus on solving mental health or behavioral problems that need to be addressed. This bill would create more crime at the stroke of a pen by turning law abiding citizens into criminals overnight. Do not be fooled by the false promises of gun control by seeking to regulate inanimate objects. Do not blame gun owners for the evil hearts and bad behavior of the few.

**Persons Testifying:** (In support) Representative Valdez, prime sponsor; Bob Ferguson, Office of the Attorney General; Jane Weiss; Niko Battle; Carmen Best, City of Seattle; Elizabeth Hjelmseth, Alliance for Gun Responsibility; Pat Griffith, League of Women Voters; and Robert Klaus Brauer.

(Opposed) Tom Kwieciak, National Rifle Association; Jane Milhans; Daniel Mitchell; Art Giddings, SKT Research & Industries, Front Sight, Upper Nisqually Marksman Ranges, and National Rifle Association; Sharyn Hinchcliffe, Pink Pistols Seattle; and Ira Moser.

**Persons Signed In To Testify But Not Testifying:** Radona Devereaux; Margy Heldring; Charlene Kahn; Emma Silber; Keifer Raduenz; Chris Spieth; Robert McKercher Jr.; Roy Lin; Bea Christophersen; Owen Crew; Brendan Blevins; Michael Rathjen; Paul Hacker; Adam Gullato; Erik Ordway; Connor Barclay; Gary Gill; David Westhaver; Ian Dunleavy; Trevor Quinn; Scott Hamill; Vicki Johnson; Hayden Wade; Troy Anthony; Dan Henson; Kevin Cassady; Christian Riley; and Sandy Brown.