
Judiciary Committee

ESB 5992

Title: An act relating to trigger modification devices.

Brief Description: Concerning bump-fire stocks.

Sponsors: Senators Van De Wege, Zeiger, Dhingra, Fain, Pedersen, Lias, Nelson, Billig, Darneille, Palumbo, Carlyle, Frockt, Rolfes, Keiser, Hunt, Wellman, Chase, Ranker, Saldaña, Kuderer and Mullet.

Brief Summary of Engrossed Bill

- Establishes criminal penalties and sentencing provisions relating to the manufacture, sale, purchase, possession, transfer, or transport of bump-fire stocks, or the use of a firearm containing a bump-fire stock in the commission of a felony.

Hearing Date: 2/9/18

Staff: Edie Adams (786-7180).

Background:

Bump stock devices have become an issue of national interest and discussion since the Las Vegas shooting in October, 2017, in which the shooter used a semiautomatic rifle affixed with a bump stock device to kill 58 people and wound hundreds of others. A bump stock is a device that replaces a firearm's standard stock and grip. The device uses the firearm's recoil to allow the firearm to slide back and forth rapidly, enabling the firearm to reset and fire at a rate that is similar to the rate of fire of an automatic firearm without the shooter having to move the trigger finger.

Machine guns are generally prohibited under federal and state law. Federal law defines a machine gun as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has issued a number

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of private letter rulings determining that reviewed bump stock devices are not machineguns or machinegun conversion devices under federal law because they do not contain automatically functioning mechanical parts or springs and do not perform automatic mechanical functions. In December 2017, the ATF indicated its intent to reexamine its past classification decisions regarding bump stock devices as the result of public interest and requests from members of Congress. The ATF issued an advance notice of proposed rulemaking requesting that firearms manufacturers, retailers, and consumers provide information and comments to assist the Department of Justice and the ATF in determining whether certain bump stock devices fall within the definition of machine gun under federal law.

Washington law contains a number of offenses relating to machine guns. A machine gun is defined under state law as a firearm or other mechanism not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing or supplying ammunition which can be loaded into the firearm and fired at the rate of five or more shots per second.

With certain exceptions, it is a class C felony in Washington for a person to manufacture, own, buy, sell, loan, furnish, transport, or have in the person's possession a machine gun, or any part designed and intended solely and exclusively for use in a machine gun or in converting a firearm into a machine gun. It is also unlawful to assemble or repair any machine gun. It is an affirmative defense to prosecution that the person acquired the firearm prior to July 1, 1994, and possesses the firearm in compliance with federal law.

It is a class A felony for a person, in the commission or furtherance of a felony, to either discharge a machine gun or menace or threaten another with a machine gun.

All machine guns and machine gun parts that are illegally held or possessed are contraband and peace officers and officers or members of the armed forces of the United States and Washington have the duty to seize any illegal machine gun or machine gun parts wherever and whenever found.

Summary of Bill:

A bump-fire stock is defined as a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the achievable rate of fire to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

Beginning July 1, 2018, it is unlawful for a person to manufacture or sell a bump-fire stock. Beginning July 1, 2019, it is unlawful to: manufacture, own, buy, sell, loan, furnish, transport, or have in possession or control, any bump-fire stock or any part designed and intended solely and exclusively for use in a bump-fire stock; or assemble or repair a bump-fire stock. Bump-fire stocks that are illegally held or illegally possessed are contraband subject to immediate seizure by law enforcement.

A violation is a class C felony ranked at seriousness level III under the Sentencing Reform Act (SRA). Exemptions from these prohibitions apply to: peace officers and military members in the discharge of official duties or while travelling to or from official duty; and persons licensed

under federal law engaged in the production, manufacture, repair, or testing of bump-fire stocks for use or purchase by the United States armed forces or law enforcement agencies, or for exportation in compliance with federal law.

It is unlawful for a person, in the commission or furtherance of a felony, to discharge a firearm containing a bump-fire stock or to menace or threaten another person with a firearm containing a bump-fire stock. A violation is a class A felony ranked at seriousness level VII under the SRA.

Firearms and deadly weapons enhancements under the SRA, and firearms enhancements under juvenile sentencing laws, do not apply to the crimes of unlawful possession of a bump-fire stock or use of a firearm containing a bump-fire stock in a felony.

All recommended sentencing agreements and plea agreements for the crimes of unlawful possession of a bump-fire stock or use of a bump-fire stock in a felony are public documents and are to be recorded on the judgment and sentence form.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Sections 1 and 2, relating to prohibiting the manufacture or sale of bump-fire stocks, take effect July 1, 2018. Sections 3 through 9, which establish additional regulations relating to bump-fire stocks, take effect July 1, 2019.