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**SUBSTITUTE SENATE BILL 5062**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Kuderer, Hunt, Dhingra, Keiser, Pedersen, Darneille, Saldaña, and Frockt; by request of Attorney General)

AN ACT Relating to high capacity magazines; amending RCW 9.41.010; adding a new section to chapter 9.41 RCW; and prescribing penalties.

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

**Sec.**  RCW 9.41.010 and 2019 c 3 s 16 (Initiative Measure No. 1639) are each amended to read as follows:

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

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

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

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

(4) "Crime of violence" means:

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

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

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

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

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

(7) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

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

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

(10) "Felony firearm offense" means:

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

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

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

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

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

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

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

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

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

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

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

(17) "Loaded" means:

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

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

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

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

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

(18) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument 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, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

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

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

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

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

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

(24) "Secure gun storage" means:

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

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

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

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

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

(a) Any crime of violence;

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

(c) Child molestation in the second degree;

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

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

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

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

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

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

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

(p) Any felony conviction under RCW 9.41.115.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The possession of a large capacity magazine by a person who legally possessed the large capacity magazine on the effective date of this section, or possession of a large capacity magazine by a person who, on or after the effective date of this section, acquires possession of the large capacity magazine by operation of law upon the death of the former owner who was in legal possession of the large capacity magazine, provided the person in possession of the large capacity magazine can establish such provenance. A person who legally possesses a large capacity magazine under this subsection (2)(a) may not sell or transfer the magazine to any other person in this state other than to a licensed dealer, to a federally licensed gunsmith for the purpose of service or repair, or to a law enforcement agency for the purpose of permanently relinquishing the large capacity magazine;

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

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

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

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

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

(g) The possession, offering for sale, sale, importation, or transfer of a large capacity magazine for the purpose of permanently relinquishing it to a law enforcement agency in this state;

(h) Any person lawfully competing in a sporting event officially sanctioned by a nationally recognized organization established in whole or in part for the purpose of sponsoring sport shooting events;

(i) The 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 such possession while not on duty;

(j) The possession of a large capacity magazine by law enforcement officers retired for service or physical disabilities, when the large capacity magazine in question was acquired as part of the officer's separation from service;

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

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

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

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

(3) In order to continue to possess a large capacity magazine that was legally possessed on the effective date of this section, as provided in subsection (2)(a) of this section, the person possessing the large capacity magazine shall:

(a) Store the large capacity magazine in a secure gun storage; and

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

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

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