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ENGROSSED SUBSTITUTE SENATE BILL 5078

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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)

READ FIRST TIME 01/29/21.

1 AN ACT Relating to establishing firearms-related safety measures  
2 to increase public safety by prohibiting the manufacture,  
3 importation, distribution, selling, and offering for sale of large  
4 capacity magazines, and by providing limited exemptions applicable to  
5 licensed firearms manufacturers and dealers for purposes of sale to  
6 armed forces branches and law enforcement agencies for purposes of  
7 sale or transfer outside the state; amending RCW 9.41.010; adding new  
8 sections to chapter 9.41 RCW; creating a new section; prescribing  
9 penalties; and providing an effective date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds and declares that  
12 gun violence is a threat to the public health and safety of  
13 Washingtonians. Firearms equipped with large capacity magazines  
14 increase casualties by allowing a shooter to keep firing for longer  
15 periods of time without reloading. Large capacity magazines have been  
16 used in all 10 of the deadliest mass shootings since 2009, and mass  
17 shooting events from 2009 to 2018 where the use of large capacity  
18 magazines caused twice as many deaths and 14 times as many injuries.  
19 Documentary evidence following gun rampages, including the 2014  
20 shooting at Seattle Pacific University, reveals many instances where  
21 victims were able to escape or disarm the shooter during a pause to

1 reload, and such opportunities are necessarily reduced when large  
2 capacity magazines are used. In addition, firearms equipped with  
3 large capacity magazines account for an estimated 22 to 36 percent of  
4 crime guns and up to 40 percent of crime guns used in serious violent  
5 crimes. Based on this evidence, and on studies showing that mass  
6 shooting fatalities declined during the 10-year period when the  
7 federal assault weapon and large capacity magazine ban was in effect,  
8 the legislature finds that restricting the sale, manufacture, and  
9 distribution of large capacity magazines is likely to reduce gun  
10 deaths and injuries. The legislature further finds that this is a  
11 well-calibrated policy based on evidence that magazine capacity  
12 limits do not interfere with responsible, lawful self-defense. The  
13 legislature further finds that the threats to public safety posed by  
14 large capacity magazines are heightened given current conditions. Our  
15 country is in the midst of a pandemic, economic recession, social  
16 tensions, and reckonings over racial justice. The years 2020 and 2021  
17 have seen a sharp increase in gun sales and gun violence, as well as  
18 fears over gun violence and incidents of armed intimidation. In this  
19 volatile atmosphere, the legislature declares that it is time to  
20 enhance public health and safety by limiting the sale of large  
21 capacity magazines. The legislature intends to limit the prospective  
22 sale of large capacity magazines, while allowing existing legal  
23 owners to retain the large capacity magazines they currently own.

24 **Sec. 2.** RCW 9.41.010 and 2021 c 215 s 93 are each amended to  
25 read as follows:

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

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

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

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

7 (4) "Crime of violence" means:

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

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

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

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

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

34 (7) "Family or household member" has the same meaning as in RCW  
35 7.105.010.

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

39 (9) "Felony firearm offender" means a person who has previously  
40 been convicted or found not guilty by reason of insanity in this

1 state of any felony firearm offense. A person is not a felony firearm  
2 offender under this chapter if any and all qualifying offenses have  
3 been the subject of an expungement, pardon, annulment, certificate,  
4 or rehabilitation, or other equivalent procedure based on a finding  
5 of the rehabilitation of the person convicted or a pardon, annulment,  
6 or other equivalent procedure based on a finding of innocence.

7 (10) "Felony firearm offense" means:

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

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

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

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

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

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

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

20 (13) "Intimate partner" has the same meaning as provided in RCW  
21 7.105.010.

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

29 (15) "Lawful permanent resident" has the same meaning afforded a  
30 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
31 1101(a)(20).

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

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

36 (18) "Loaded" means:

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

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

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

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

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

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

14 (20) "Manufacture" means, with respect to a firearm or large  
15 capacity magazine, the fabrication or construction of a firearm or  
16 large capacity magazine.

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

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

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

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

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

32 (26) "Secure gun storage" means:

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

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

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

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

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

7 (a) Any crime of violence;

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

11 (c) Child molestation in the second degree;

12 (d) Incest when committed against a child under age (~~fourteen~~)  
13 14;

14 (e) Indecent liberties;

15 (f) Leading organized crime;

16 (g) Promoting prostitution in the first degree;

17 (h) Rape in the third degree;

18 (i) Drive-by shooting;

19 (j) Sexual exploitation;

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

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

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

30 (n) Any other felony with a deadly weapon verdict under RCW  
31 9.94A.825;

32 (o) Any felony offense in effect at any time prior to June 6,  
33 1996, that is comparable to a serious offense, or any federal or out-  
34 of-state conviction for an offense that under the laws of this state  
35 would be a felony classified as a serious offense; or

36 (p) Any felony conviction under RCW 9.41.115.

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

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

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

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

19 (33) "Undetectable firearm" means any firearm that is not as  
20 detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through  
21 metal detectors or magnetometers commonly used at airports or any  
22 firearm where the barrel, the slide or cylinder, or the frame or  
23 receiver of the firearm would not generate an image that accurately  
24 depicts the shape of the part when examined by the types of X-ray  
25 machines commonly used at airports.

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

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

32 (36) "Large capacity magazine" means an ammunition feeding device  
33 with the capacity to accept more than 10 rounds of ammunition, or any  
34 conversion kit, part, or combination of parts, from which such a  
35 device can be assembled if those parts are in possession of or under  
36 the control of the same person, but shall not be construed to include  
37 any of the following:

38 (a) An ammunition feeding device that has been permanently  
39 altered so that it cannot accommodate more than 10 rounds of  
40 ammunition;

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

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

4 (37) "Distribute" means to give out, provide, make available, or  
5 deliver a firearm or large capacity magazine to any person in this  
6 state, with or without consideration, whether the distributor is in-  
7 state or out-of-state. "Distribute" includes, but is not limited to,  
8 filling orders placed in this state, online or otherwise.  
9 "Distribute" also includes causing a firearm or large capacity  
10 magazine to be delivered in this state.

11 (38) "Import" means to move, transport, or receive an item from a  
12 place outside the territorial limits of the state of Washington to a  
13 place inside the territorial limits of the state of Washington.  
14 "Import" does not mean situations where an individual possesses a  
15 large capacity magazine when departing from, and returning to,  
16 Washington state, so long as the individual is returning to  
17 Washington in possession of the same large capacity magazine the  
18 individual transported out of state.

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

21 (1) No person in this state may manufacture, import, distribute,  
22 sell, or offer for sale any large capacity magazine, except as  
23 authorized in this section.

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

26 (a) The manufacture, importation, distribution, offer for sale,  
27 or sale of a large capacity magazine by a licensed firearms  
28 manufacturer for the purposes of sale to any branch of the armed  
29 forces of the United States or the state of Washington, or to a law  
30 enforcement agency in this state for use by that agency or its  
31 employees for law enforcement purposes;

32 (b) The importation, distribution, offer for sale, or sale of a  
33 large capacity magazine by a dealer that is properly licensed under  
34 federal and state law for the purpose of sale to any branch of the  
35 armed forces of the United States or the state of Washington, or to a  
36 law enforcement agency in this state for use by that agency or its  
37 employees for law enforcement purposes;

38 (c) The distribution, offer for sale, or sale of a large capacity  
39 magazine to or by a dealer that is properly licensed under federal



1 and state law where the dealer acquires the large capacity magazine  
2 from a person legally authorized to possess or transfer the large  
3 capacity magazine for the purpose of selling or transferring the  
4 large capacity magazine to a person who does not reside in this  
5 state.

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

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW  
9 to read as follows:

10 Distributing, selling, offering for sale, or facilitating the  
11 sale, distribution, or transfer of a large capacity magazine online  
12 is an unfair or deceptive act or practice or unfair method of  
13 competition in the conduct of trade or commerce for purposes of the  
14 consumer protection act, chapter 19.86 RCW.

15 NEW SECTION. **Sec. 5.** If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2022.

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