

SENATE BILL REPORT

SHB 1240

As Reported by Senate Committee On:
Law & Justice, March 28, 2023

Title: An act relating to establishing firearms-related safety measures to increase public safety by prohibiting the manufacture, importation, distribution, selling, and offering for sale of assault weapons, and by providing limited exemptions applicable to licensed firearm manufacturers and dealers for purposes of sale to armed forces branches and law enforcement agencies and for purposes of sale or transfer outside the state, and to inheritors.

Brief Description: Establishing firearms-related safety measures to increase public safety.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Peterson, Senn, Alvarado, Walen, Street, Springer, Simmons, Reeves, Reed, Ormsby, Kloba, Fitzgibbon, Duerr, Doglio, Berry, Bateman, Fey, Davis, Ramel, Bergquist, Fosse, Pollet, Lekanoff, Macri, Gregerson and Santos; by request of Office of the Governor, Attorney General).

Brief History: Passed House: 3/8/23, 55-42.

Committee Activity: Law & Justice: 3/23/23, 3/28/23 [DPA, DNP].

Brief Summary of Amended Bill

- Prohibits the manufacture, importation, distribution, sale, or offer for sale of any assault weapon, subject to various exceptions for licensed firearm manufacturers and dealers, and for individuals who inherit an assault weapon.
- Provides a violation of these restrictions constitutes a gross misdemeanor and is actionable under the Consumer Protection Act.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

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

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Torres, Wagoner and Wilson, L..

Staff: Tim Ford (786-7423)

Background: Firearms Regulations. Firearms and other weapons are regulated under Washington law. Among other restrictions, the state prohibits all persons from manufacturing, owning, buying, selling, loaning, furnishing, transporting, possessing, or controlling any machine gun, bump-fire stock, undetectable firearm, large capacity magazines, and certain other weapons, subject to various exceptions.

Washington does not specifically define and regulate a general class of weapons designated as assault weapons, but the state has established various restrictions on a group of weapons classified as semiautomatic assault rifles. State law defines a semiautomatic assault rifle as 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, but this definition excludes antique firearms, any firearm that has been made permanently inoperable, and any firearm that is manually operated by bolt, pump, lever, or slide action.

Restrictions on semiautomatic assault rifles include:

- no dealer may deliver a semiautomatic assault rifle to the purchaser until:
 1. the purchaser provides proof they have completed a recognized firearm safety training program within the last five years;
 2. the dealer is notified by the chief of police or sheriff that the purchaser is eligible to possess a firearm and the purchase is approved; and
 3. ten business days have elapsed since the purchase application or, in the case of a transfer, ten business days have elapsed from the date a background check was initiated;
- the purchaser of a semiautomatic assault rifle must be personally known to the dealer or present clear evidence of their identity; and
- subject to various exceptions, a person under 21 years of age may not purchase a semiautomatic assault rifle, and no person may sell or transfer a semiautomatic assault rifle to a person under 21 years of age.

Federal law previously restricted certain semiautomatic assault weapons, subject to various exceptions and a sunset provision. These federal restrictions expired in 2004. Nine other states and the District of Columbia have enacted laws imposing various restrictions on assault weapons.

The Consumer Protection Act. The Consumer Protection Act (CPA) prohibits unfair methods of competition, and unfair or deceptive acts or practices in trade or commerce. If a person is injured in their business or property by a violation of the CPA, the person may bring a civil action to enjoin further violations and recover actual damages, costs, and reasonable attorney's fees. Whenever the attorney general believes any person may have material or information relevant to an investigation into a violation of the CPA, the attorney general may issue a civil investigative demand requiring the person to produce the materials, answer interrogatories, or testify. The Attorney General may bring a legal action to enjoin violations of the CPA, obtain restitution, and seek civil penalties.

Summary of Amended Bill: The manufacture, importation, distribution, sale, or offer for sale of any assault weapon is prohibited. The term "assault weapon" is defined to include various kinds of firearms, including:

- specific firearm models identified in the bill;
- semiautomatic rifles with an overall length of less than 30 inches;
- semiautomatic centerfire rifles that have the capacity to accept a detachable magazine and have one or more additional features listed in the bill;
- semiautomatic centerfire rifles with a fixed magazine with the capacity to accept more than ten rounds;
- semiautomatic pistols that have the capacity to accept a detachable magazine and have one or more additional features listed in the bill;
- semiautomatic shotguns that have one or more additional features listed in the bill; and
- conversion kits and parts that can be used to assemble an assault weapon or convert a firearm into an assault weapon, if the parts are in the possession of or under the control of the same person.

The term assault weapon excludes antique firearms, firearms that have been made permanently inoperable, and firearms that are manually operated by bolt, pump, lever, or slide action.

The restrictions on assault weapons are subject to several exceptions:

- licensed firearms manufacturers are authorized to manufacture, import, distribute, offer for sale, and sell assault weapons for the purpose of sale to the armed forces of the United States or Washington, or to any law enforcement agencies for law enforcement purposes, or to a person who does not reside in Washington;
- licensed firearms dealers are authorized to import, distribute, offer for sale, and sell assault weapons for the purpose of sale to the armed forces of the United States or Washington, or to law enforcement agencies in Washington for law enforcement purposes;
- licensed firearms dealers are authorized to distribute, offer for sale, and sell assault weapons that were acquired from an individual legally authorized to possess or transfer the weapon, for the purpose of selling or transferring the weapon to a person who does not reside in Washington;

- the purpose of this exception is to allow individuals who no longer wish to own an assault weapon to sell their assault weapon and the exception is not intended to allow Washington dealers to purchase assault weapons wholesale for the purpose of selling a stock or inventory of assault weapons online or in person to nonresidents; and
- any person may acquire possession of an assault weapon by operation of law upon the death of the weapon's former owner, if that former owner was in legal possession of the weapon and the person who acquires possession can establish such provenance.

A violation of these restrictions is classified as a gross misdemeanor.

A violation is classified as a matter vitally affecting the public interest, not reasonable in relation to the development and preservation of business, and an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the CPA.

If the Attorney General issues a civil investigative demand regarding a potential violation of these restrictions, the recipient of the demand may file in Superior Court a petition to extend the time to respond, or modify or set aside the demand for good cause. The Attorney General is prohibited from sharing any materials or information obtained through a civil investigative demand with any law enforcement agency conducting a criminal investigation, unless required to do so pursuant to a search warrant.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Modifies the definition of "import" to exclude situations where an individual possesses an assault weapon when departing and returning to Washington State with the same assault weapon.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill has been introduced in some form for the last 7 years since there was a shooting and a young man who purchased an assault weapon killed three people and wounded others. We want to stop the next mass shooting. The list of assault weapons is very specific but we are also addressing general features so that if new weapons come out they will also be covered. This will save lives. Assault weapons are designed for the sole purpose of maximizing killing. Assault weapons are 11 times more likely to be used in mass shootings and seven

times more likely to be used to kill a law enforcement officer.

This bill is on sound constitutional footing and similar laws have been upheld across the country. The Supreme Court has reiterated that firearm rights are not unlimited and the Second Amendment does not protect a right to keep and bear any weapon whatsoever.

CON: This bill bans the most commonly owned and lawfully possessed firearms, including some pistols and shotguns. "Assault weapon" is a manufactured term and fear mongering. The weapons targeted by this bill are the most popular self-defense weapons in America, contrary to the Legislature's finding that they are not suitable for self defense. It is beyond dispute that a statistically significant number of citizens possess semiautomatic rifles for self-defense. Similar bans have not been upheld under the Bruen test and there are 20 active court cases challenging similar bans across the country. This law will be found unconstitutional, but it could take the courts years to resolve.

Persons Testifying: PRO: Representative Strom Peterson, Prime Sponsor; Barbara Serrano, Office of the Governor; William McGinty, Attorney General's Office; Margaret Heldring, Grandmothers Against Gun Violence; April Schentrup; Ann-Marie Parsons; Trudi Inslee.

CON: Donald Parker, Business owners of central Washington; Austin Harlan, The Range, LLC; Michael Findlay, National Shooting Sports Foundation; Knox Williams, American Suppressor Association; Aoibheann Cline, National Rifle Association; Don Nguyen; Daniel Mitchell, Sporting Systems.

Persons Signed In To Testify But Not Testifying: PRO: Gwen Loosmore; Steve Albrecht; Tanya Aggar, WSPTA; Andrew Villeneuve, Northwest Progressive Institute; Jerry Eichner, Washington Chapter of the American Academy of Pediatrics; Paula Barnes; Jane Weiss; Emily Cantrell; Dr. Jerrold Eichner, WA Chapter of the American Academy of Pediatrics; Niko Battle; Dr. Gwen Loosmore, WA State PTA; Chetan Soni, Seattle Student Union; Karyn Brownson, King County Public Health; Justine Stromberg, Moms Demand Action; Ian Taylor; Diane Studley; Leanne Kennedy; Judy McGinty; Henry Tanz; Linda Tanz; Winona Hollins Hauge, member of grandmothers against gun violence and supporter of the Alliance.

CON: Jeffrey Slotnick, Setracon Inc.; Eric pratt, I, America; C Davis, Washingtonians to Recall Inslee; Laurie Layne; Julie Barrett, Conservative Ladies of Washington; Matt Page; Teo Morca; Benjamin Gallon; Matthew Sharp; CHRISTORFER HOOVER; James Fisher; Clayton Bray; Houston King; Zacarey Keith; Christopher Leritz; David George; Joe Swanson; Steven Larsen; Michael McKinley; Scott Witherow; Brett Edinger; Chris Chappell; Bob Beasley; Alex Dorr, The American Firearms, on behalf of our instate affiliate, Washington Gun Rights; Calvin Burris; Noah Young; Shawn Smith; KASEN BURRIS; Marvin Bean; james taasevigen; Scott Myers; Dale Johnson; Jacob Evans; Edward Traverso; Robert Moore, Sasquatch Tactical; Amory Gengler; Kevin Bridges; Paul Scherling; Isaac Holyk; John Ecker, No; Riley Holloway; Nicholas Spacone; BILL

ELDRIDGE; Mary Gitts; Scott Spletstoesser; Elizabeth VanSteertegem; Richard Olsen, Killer Innovations; Jeffrey Watson; Paul Edwards; John McElfresh, Self; Amanda McKinney, Yakima County; Yevgen Kozhushko; Taylor McDermid; Daniel Martinson; Chelsea Ostrom; Raymond Yates; Jonathan Nelson; Allen Ernst; Zachary Bigger; Curtis Harris; Justin Whitaker; Alex Willess; Brendan Clement; Adam Milewski; William Finstad; William Parr; Josiah Close; Kevin Morris; Mitchell Cheney; Kenneth Andreason; Corey Bunch; Tyler Budwey; Joseph Maxwell; Joseph Kralovic; Justin Ostrom; Austin Fitterer; Paul Hacker; Chance Wold; Jason Harrison; Kevin Cucchiara; Carlos Allison; Dan Hudson; Dennis Bohanon; Marcus Carter, Kitsap Rifle & Revolver Club; David Ghezzi, No; Braxton Lake; Sean Wilson; Gabriel Jacobs; Veniamin Gerasimov; Kevin Fitzgerald; Elliette Barker; Trevor Best, Libertarian Party of Washington; Alex Leung, none; Dedotated Wam, Asian-Americans for Gun Rights Preservation; Kevin Carmona; Chris James; Chad Towne; Luke Mccandless; Nickalas Zylstra; thomas young.

OTHER: eric cortez; Zane Bray, n/a; Rhaymond Dela cruz.