
SENATE BILL 5078

State of Washington

67th Legislature

2021 Regular Session

By Senators Lias and Kuderer; by request of Attorney General

Prefiled 01/06/21.

1 AN ACT Relating to establishing firearms-related safety measures
2 to increase public safety by prohibiting the manufacture, possession,
3 distribution, importation, selling, offering for sale, purchasing, or
4 transfer of large capacity magazines, by allowing continued
5 possession of large capacity magazines limited to possession prior
6 to, and inheritance on or after, the effective date of this act,
7 subject to certain restrictions on the ability to sell or transfer
8 such large capacity magazines and permitting their possession only on
9 the owner's property or while engaged in lawful outdoor recreational
10 activities or use at a licensed shooting range, or when transporting
11 the large capacity magazine to or from these locations, and by
12 providing limited exemptions applicable to certain government
13 officers, agents, employees, or contractors, law enforcement and
14 corrections officers and military members, licensed firearms
15 manufacturers, dealers, and gunsmiths, and persons engaged in sport
16 shooting or permanently relinquishing a large capacity magazine to
17 law enforcement; amending RCW 9.41.010; adding a new section to
18 chapter 9.41 RCW; creating a new section; and prescribing penalties.

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

20 NEW SECTION. **Sec. 1.** The legislature finds and declares that
21 gun violence is a threat to the public health and safety of

1 Washingtonians. Firearms equipped with large capacity magazines
2 increase casualties by allowing a shooter to keep firing for longer
3 periods of time without reloading. Large capacity magazines have been
4 used in all 10 of the deadliest mass shootings since 2009, and mass
5 shooting events from 2009 to 2018 where the use of large capacity
6 magazines caused twice as many deaths and 14 times as many injuries.
7 Documentary evidence following gun rampages, including the 2014
8 shooting at Seattle Pacific University, reveals many instances where
9 victims were able to escape or disarm the shooter during a pause to
10 reload, and such opportunities are necessarily reduced when large
11 capacity magazines are used. In addition, firearms equipped with
12 large capacity magazines account for an estimated 22 to 36 percent of
13 crime guns and up to 40 percent of crime guns used in serious violent
14 crimes. Based on this evidence, and on studies showing that mass
15 shooting fatalities declined during the 10-year period when the
16 federal assault weapon and large capacity magazine ban was in effect,
17 the legislature finds that restricting large capacity magazines is
18 likely to reduce gun deaths and injuries. The legislature further
19 finds that this is a well-calibrated policy based on evidence that
20 magazine capacity limits do not interfere with responsible, lawful
21 self-defense, and data self-reported by the gun industry showing that
22 the vast majority of handgun magazines hold 10 or fewer rounds. The
23 legislature further finds that the threats to public safety posed by
24 large capacity magazines are heightened given current conditions. Our
25 country is in the midst of a pandemic, economic recession, social
26 tensions, and reckonings over racial justice. The year 2020 has seen
27 a sharp increase in gun sales and gun violence, as well as fears over
28 gun violence and incidents of armed intimidation. In this volatile
29 atmosphere, the legislature declares that it is time to enhance
30 public health and safety by limiting the sale or transfer of large
31 capacity magazines in Washington.

32 **Sec. 2.** RCW 9.41.010 and 2020 c 29 s 3 are each amended to read
33 as follows:

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

36 (1) "Antique firearm" means a firearm or replica of a firearm not
37 designed or redesigned for using rim fire or conventional center fire
38 ignition with fixed ammunition and manufactured in or before 1898,
39 including any matchlock, flintlock, percussion cap, or similar type

1 of ignition system and also any firearm using fixed ammunition
2 manufactured in or before 1898, for which ammunition is no longer
3 manufactured in the United States and is not readily available in the
4 ordinary channels of commercial trade.

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

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

15 (4) "Crime of violence" means:

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

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

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

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

34 (6) "Dealer" means a person engaged in the business of selling
35 firearms at wholesale or retail who has, or is required to have, a
36 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
37 does not have, and is not required to have, a federal firearms
38 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
39 makes only occasional sales, exchanges, or purchases of firearms for

1 the enhancement of a personal collection or for a hobby, or sells all
2 or part of his or her personal collection of firearms.

3 (7) "Family or household member" has the same meaning as in RCW
4 26.50.010.

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

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

16 (10) "Felony firearm offense" means:

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

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

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

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

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

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

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

29 (13) "Intimate partner" has the same meaning as provided in RCW
30 26.50.010.

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

38 (15) "Lawful permanent resident" has the same meaning afforded a
39 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
40 1101(a)(20).

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

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

5 (18) "Loaded" means:

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

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

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

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

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

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

22 (20) "Manufacture" means, with respect to a firearm, the
23 fabrication or construction of a firearm.

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

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

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

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

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

39 (26) "Secure gun storage" means:

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

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

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

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

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

15 (a) Any crime of violence;

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

19 (c) Child molestation in the second degree;

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

21 (e) Indecent liberties;

22 (f) Leading organized crime;

23 (g) Promoting prostitution in the first degree;

24 (h) Rape in the third degree;

25 (i) Drive-by shooting;

26 (j) Sexual exploitation;

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

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

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

37 (n) Any other felony with a deadly weapon verdict under RCW
38 9.94A.825;

39 (o) Any felony offense in effect at any time prior to June 6,
40 1996, that is comparable to a serious offense, or any federal or out-

1 of-state conviction for an offense that under the laws of this state
2 would be a felony classified as a serious offense; or

3 (p) Any felony conviction under RCW 9.41.115.

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

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

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

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

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

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

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

39 (36) "Large capacity magazine" means an ammunition feeding device
40 with the capacity to accept more than 10 rounds of ammunition, or any

1 conversion kit, part, or combination of parts, from which such a
2 device can be assembled if those parts are in possession of or under
3 the control of the same person, but shall not be construed to include
4 any of the following:

5 (a) An ammunition feeding device that has been permanently
6 altered so that it cannot accommodate more than 10 rounds of
7 ammunition;

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

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

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

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

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

19 (a) The possession of a large capacity magazine by a person who
20 legally possessed the large capacity magazine before the effective
21 date of this section or the possession of a large capacity magazine
22 by a person who, on or after the effective date of this section,
23 acquires possession of the large capacity magazine by operation of
24 law upon the death of a former owner who was in legal possession of
25 the large capacity magazine, provided the person in possession of the
26 large capacity magazine can establish such provenance. A person who
27 legally possesses a large capacity magazine under this subsection is
28 subject to the provisions of subsection (3) of this section;

29 (b) Any government officer, agent, or employee, or any government
30 contractor hired to provide firearms training to law enforcement
31 officers, while acting within the scope of official duties, if
32 authorized to acquire or possess a large capacity magazine in
33 connection with official duties;

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

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

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

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

18 (g) Law enforcement officers of this or another state, or state
19 or local corrections officers, while acting within the scope of
20 official duties, including authorized possession while not on duty,
21 if authorized to acquire or possess a large capacity magazine in
22 connection with official duties;

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

27 (i) Members of the armed forces of the United States or the state
28 of Washington, or of the national guard or military reserves, while
29 acting within the scope of official duties, if authorized to acquire
30 or possess a large capacity magazine in connection with official
31 duties;

32 (j) Any persons while otherwise lawfully engaged in shooting at a
33 duly licensed, lawfully operated shooting range; or

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

38 (3) A person who lawfully possesses a large capacity magazine
39 under subsection (2)(a) of this section must comply with the
40 following:

1 (a) The person shall not sell or transfer the magazine to any
2 other person in this state other than to a licensed dealer, to a
3 federally licensed gunsmith for the purpose of service or repair, or
4 to a law enforcement agency for the purpose of permanently
5 relinquishing the large capacity magazine; and

6 (b) The person shall possess the large capacity magazine only on
7 the property owned or immediately controlled by the person, while
8 engaged in the legal use of the large capacity magazine at a duly
9 licensed shooting range, while engaged in a lawful outdoor
10 recreational activity such as hunting, or while traveling to or from
11 these locations for the purpose of engaging in the legal use of the
12 large capacity magazine, provided that the large capacity magazine is
13 stored unloaded and in a separate locked container during transport.

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

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