

HOUSE BILL REPORT

ESB 5992

As Passed House - Amended:
February 23, 2018

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 History:

Committee Activity:

Judiciary: 2/9/18, 2/15/18 [DP].

Floor Activity:

Passed House - Amended: 2/23/18, 56-41.

Brief Summary of Engrossed Bill
(As Amended by House)

- 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.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Muri, Orwall and Valdez.

Minority Report: Do not pass. Signed by 3 members: Representatives Rodne, Ranking Minority Member; Klippert and Shea.

Staff: Edie Adams (786-7180).

Background:

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

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 of private letter rulings determining that reviewed bump stock devices are not machine guns or machine gun 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.

The Washington State Patrol (WSP) must establish and administer a bump-fire stock buy-back program to allow a person to relinquish a bump-fire stock to the WSP or participating local law enforcement agencies in exchange for a monetary payment of \$150. The WSP must coordinate with local law enforcement agencies to implement the buy-back program between July 1, 2018, and June 30, 2019, in locations in regions across the state. The WSP must adopt rules to implement the program, including the method for providing monetary payments and reimbursing participating law enforcement agencies for payments made to individuals, as well as guidelines for the destruction or other disposition of relinquished bump-fire stocks. The bump-fire stock buy-back program is subject to the availability of funds appropriated for this specific purpose and a person does not have a right or entitlement to receive a monetary payment under the buy-back program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 2019, except for sections 1 and 2, relating to prohibiting the manufacture or sale of bump-fire stocks, which take effect July 1, 2018.

Staff Summary of Public Testimony:

(In support) This is a modest approach to making our communities safer. The Las Vegas shooting showed the devastation that bump stock devices can cause. We have had a bright line in the law between legal semiautomatic firearms and illegal machine guns. Bump stock devices essentially turn a semiautomatic firearm into a machine gun. Machine guns have only one purpose and that is to kill people. They are weapons of war that should not be in the hands of civilians. The Legislature needs to close this machine gun loophole.

Sensible gun laws can reduce gun violence. A young woman from Washington was one of the victims killed in Las Vegas and her loss is devastating to her family. She was running for her life but she did not stand a chance because the shooter used a military-style weapon that was made even more lethal by a bump stock. Shock and awe, and thoughts and prayers, are not an adequate response to these tragedies. If the Legislature fails to ban bump stocks, it would send the message that these devices are more important than the 58 lives lost in Las Vegas. Elected officials owe it to their communities to reflect the public desire for common sense gun laws.

Bump stocks provide a high rate of poorly aimed fire in a short time and create a great risk for large groups of people. There is not a legitimate self-defense use for this device. They are largely a novelty item with no great benefit, but they create great risk for the public. A person does not have to be a skilled marksman to be able to kill large numbers of people with this weapon. We do not allow anonymous access to machine guns, but that is essentially what is happening now because you can buy these devices online without giving your real name.

(Opposed) The bill addresses a problem that does not exist in Washington. No owner of a bump stock has ever hurt or killed anyone in this state. Banning these devices will not have any impact on crime; it just makes criminals out of otherwise law-abiding citizens. The vast majority of people using bump stocks do so appropriately. The Legislature should not deprive people of their property, but instead should go after criminal behavior.

The bill affects the constitutional rights of citizens and disregards individuals with disabilities who need these devices to exercise their right of self-defense. Bump stocks are used as an assistive device by persons who have physical disabilities that make it difficult to fire a gun.

The bill contains no grandfather clause similar to the one enacted with the machine gun ban. It will result in the confiscation of personal property which is a chilling thing to see. People who would not otherwise want a bump stock are now buying them because of the threatened ban. The Legislature should wait and see what the Bureau of Alcohol, Tobacco, Firearms and Explosives determines after its review of these devices.

Persons Testifying: (In support) Senator Van De Wege, prime sponsor; Peter Holmes, City of Seattle; Jeff Parsons; Debbie McDonald; and Tim Moses.

(Opposed) Kelly Birr; Mike Silvers; Luis Berbesi; and Mike Carpenter.

Persons Signed In To Testify But Not Testifying: Ira Moser; Leslie Regier; Levi Roadman; Kristopher Kord; Sundae Delgado; Roy Lin; Phil Watson, Firearms Policy Coalition; Catherine Person; Sharyn Hinchcliffe, Seattle Pink Pistols; and Marion Faircloth.