

SSB 5078 - S AMD 458

By Senator Pedersen

NOT CONSIDERED 04/26/2021

1 Strike everything after the enacting clause and insert the
2 following:

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

1 intimidation. In this volatile atmosphere, the legislature declares
2 that it is time to enhance public health and safety by limiting the
3 sale of large capacity magazines, which are dangerous and unusual.
4 The legislature acknowledges that in *Duncan v. Becerra*, the United
5 States court of appeals for the ninth circuit court found that
6 California's law creating a blanket ban on large capacity magazines
7 was unconstitutional. The legislature does not intend to create a
8 blanket ban, but only to limit the prospective sale of large capacity
9 magazines, allowing existing legal owners to retain large capacity
10 magazines for the purposes of defending themselves and their homes
11 and using those large capacity magazines in other authorized
12 locations.

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

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

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

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

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

35 (4) "Crime of violence" means:

36 (a) Any of the following felonies, as now existing or hereafter
37 amended: Any felony defined under any law as a class A felony or an
38 attempt to commit a class A felony, criminal solicitation of or
39 criminal conspiracy to commit a class A felony, manslaughter in the

1 first degree, manslaughter in the second degree, indecent liberties
2 if committed by forcible compulsion, kidnapping in the second degree,
3 arson in the second degree, assault in the second degree, assault of
4 a child in the second degree, extortion in the first degree, burglary
5 in the second degree, residential burglary, and robbery in the second
6 degree;

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

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

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

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

23 (7) "Family or household member" has the same meaning as in RCW
24 26.50.010.

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

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

36 (10) "Felony firearm offense" means:

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

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

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

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

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

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

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

9 (13) "Intimate partner" has the same meaning as provided in RCW
10 26.50.010.

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

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

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

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

25 (18) "Loaded" means:

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

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

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

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

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

35 (19) "Machine gun" means any firearm known as a machine gun,
36 mechanical rifle, submachine gun, or any other mechanism or
37 instrument not requiring that the trigger be pressed for each shot
38 and having a reservoir clip, disc, drum, belt, or other separable
39 mechanical device for storing, carrying, or supplying ammunition

1 which can be loaded into the firearm, mechanism, or instrument, and
2 fired therefrom at the rate of five or more shots per second.

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

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

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

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

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

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

20 (26) "Secure gun storage" means:

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

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

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

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

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

35 (a) Any crime of violence;

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

39 (c) Child molestation in the second degree;

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

- 1 (e) Indecent liberties;
- 2 (f) Leading organized crime;
- 3 (g) Promoting prostitution in the first degree;
- 4 (h) Rape in the third degree;
- 5 (i) Drive-by shooting;
- 6 (j) Sexual exploitation;
- 7 (k) Vehicular assault, when caused by the operation or driving of
- 8 a vehicle by a person while under the influence of intoxicating
- 9 liquor or any drug or by the operation or driving of a vehicle in a
- 10 reckless manner;
- 11 (l) Vehicular homicide, when proximately caused by the driving of
- 12 any vehicle by any person while under the influence of intoxicating
- 13 liquor or any drug as defined by RCW 46.61.502, or by the operation
- 14 of any vehicle in a reckless manner;
- 15 (m) Any other class B felony offense with a finding of sexual
- 16 motivation, as "sexual motivation" is defined under RCW 9.94A.030;
- 17 (n) Any other felony with a deadly weapon verdict under RCW
- 18 9.94A.825;
- 19 (o) Any felony offense in effect at any time prior to June 6,
- 20 1996, that is comparable to a serious offense, or any federal or out-
- 21 of-state conviction for an offense that under the laws of this state
- 22 would be a felony classified as a serious offense; or
- 23 (p) Any felony conviction under RCW 9.41.115.
- 24 (29) "Short-barreled rifle" means a rifle having one or more
- 25 barrels less than (~~sixteen~~) 16 inches in length and any weapon made
- 26 from a rifle by any means of modification if such modified weapon has
- 27 an overall length of less than (~~twenty-six~~) 26 inches.
- 28 (30) "Short-barreled shotgun" means a shotgun having one or more
- 29 barrels less than (~~eighteen~~) 18 inches in length and any weapon
- 30 made from a shotgun by any means of modification if such modified
- 31 weapon has an overall length of less than (~~twenty-six~~) 26 inches.
- 32 (31) "Shotgun" means a weapon with one or more barrels, designed
- 33 or redesigned, made or remade, and intended to be fired from the
- 34 shoulder and designed or redesigned, made or remade, and intended to
- 35 use the energy of the explosive in a fixed shotgun shell to fire
- 36 through a smooth bore either a number of ball shot or a single
- 37 projectile for each single pull of the trigger.
- 38 (32) "Transfer" means the intended delivery of a firearm to
- 39 another person without consideration of payment or promise of payment
- 40 including, but not limited to, gifts and loans. "Transfer" does not

1 include the delivery of a firearm owned or leased by an entity
2 licensed or qualified to do business in the state of Washington to,
3 or return of such a firearm by, any of that entity's employees or
4 agents, defined to include volunteers participating in an honor
5 guard, for lawful purposes in the ordinary course of business.

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

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

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

19 (36) "Large capacity magazine" means an ammunition feeding device
20 with the capacity to accept more than 12 rounds of ammunition, or any
21 conversion kit, part, or combination of parts, from which such a
22 device can be assembled if those parts are in possession of or under
23 the control of the same person, but shall not be construed to include
24 any of the following:

25 (a) An ammunition feeding device that has been permanently
26 altered so that it cannot accommodate more than 12 rounds of
27 ammunition;

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

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

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

33 (1) No person in this state may distribute, sell, or offer for
34 sale any large capacity magazine, except as authorized in this
35 section.

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

38 (a) The offer for sale or sale of a large capacity magazine by a
39 licensed firearms manufacturer for the purposes of sale to any branch

1 of the armed forces of the United States or the state of Washington,
2 or to a law enforcement agency in this state for use by that agency
3 or its employees for law enforcement purposes;

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

10 (c) The offer for sale or sale of a large capacity magazine by a
11 dealer that is properly licensed under federal and state law where
12 the dealer acquires the large capacity magazine from a person legally
13 authorized to possess or transfer the large capacity magazine for the
14 purpose of selling or transferring the large capacity magazine to a
15 person who does not reside in this state.

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

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By Senator Pedersen

NOT CONSIDERED 04/26/2021

18 On page 1, line 1 of the title, after "Relating to" strike the
19 remainder of the title and insert "establishing firearms-related
20 safety measures to increase public safety by prohibiting the
21 distribution, selling, and offering for sale of large capacity
22 magazines, and by providing limited exemptions applicable to certain
23 government officers, agents, employees, or contractors, law
24 enforcement and corrections officers and military members, licensed
25 firearms manufacturers, and dealers; amending RCW 9.41.010; adding a
26 new section to chapter 9.41 RCW; creating a new section; and
27 prescribing penalties."

EFFECT: (1) Limits the prohibition to the distribution or sale of
large capacity magazines.

(2) Defines a large capacity magazine as a device that may accept
more than 12 rounds.

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