

# SENATE BILL REPORT

## ESSB 5078

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As Passed Senate, February 9, 2022

**Title:** An act relating to establishing firearms-related safety measures to increase public safety by prohibiting the manufacture, possession, distribution, importation, selling, offering for sale, purchasing, or transfer of large capacity magazines, by allowing continued possession of large capacity magazines limited to possession prior to, and inheritance on or after, the effective date of this act, subject to certain restrictions on the ability to sell or transfer such large capacity magazines and permitting their possession only on the owner's property or while engaged in lawful outdoor recreational activities or use at a licensed shooting range, or when transporting the large capacity magazine to or from these locations, and by providing limited exemptions applicable to certain government officers, agents, employees, or contractors, law enforcement and corrections officers and military members, licensed firearms manufacturers, dealers, and gunsmiths, and persons engaged in sport shooting or permanently relinquishing a large capacity magazine to law enforcement.

**Brief Description:** Addressing firearm safety measures to increase public safety.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Liias, Kuderer, Darneille, Hunt, Nguyen, Pedersen, Wilson, C. and Lovelett; by request of Attorney General).

**Brief History:**

**Committee Activity:** Law & Justice: 1/25/21, 1/28/21 [DPS, DNP].

**Floor Activity:** Passed Senate: 2/9/22, 28-20.

**Brief Summary of Engrossed First Substitute Bill**

- Prohibits the manufacture, possession, distribution, importation, selling, offering for sale, purchase, or transfer of large capacity magazines with the capability of holding more than 10 rounds of ammunition, unless the possession falls within one of the stated exceptions including prior possession.
- Makes violations a gross misdemeanor.

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*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.*

- Creates a Consumer Protection Act violation for selling, offering for sale, or facilitating the sale, distribution, or transfer of a large capacity magazine online.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5078 be substituted therefor, and the substitute bill do pass.

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

**Minority Report:** Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Holy and Wagoner.

**Staff:** Joe McKittrick (786-7287)

**Background:** A firearm magazine can hold several rounds of ammunition and is detachable from the firearm. Washington law does not impose regulations relating to ammunition or ammunition magazines, aside from a requirement that firearms dealers must obtain a license to sell ammunition. In 1994, Congress enacted a ban on the manufacture, transfer, and possession of assault weapons and large capacity ammunition feeding devices capable of holding more than ten rounds of ammunition, but exempted assault weapons and large capacity ammunition feeding devices that were manufactured before the law became effective. This law was subject to a sunset provision and expired in 2004.

Nine states and the District of Columbia have enacted laws that prohibit or place restrictions on large capacity magazines, typically defined as magazines capable of accepting more than ten or 15 rounds of ammunition. Some of these state laws completely ban the manufacture, transfer, or possession of large capacity magazines, while others exempt large capacity magazines that were possessed prior to the law's effective date.

Gross Misdemeanors. Every person convicted of a gross misdemeanor defined in law shall be punished by imprisonment in the county jail for a maximum term, fixed by the court, up to 364 days, or by a fine, in an amount fixed by the court, of not more than \$5,000, or by both.

**Summary of Engrossed First Substitute Bill:** A large capacity magazine is defined as an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if in the possession of the same person. A large capacity magazine does not include:

- an ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition,
- a 22 caliber tube ammunition feeding device, or
- a tubular magazine that is contained in a lever-action firearm.

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

Import means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. Import does not include situations where an individual possesses a large capacity magazine when departing from, and returning to, Washington State, so long as the individual is returning to Washington in possession of the same large capacity magazine the individual transported out of the state.

A person may not manufacture, import, distribute, sell, or offer for sale any large capacity magazine except as specifically authorized.

The ban does not apply to the manufacture, importation, distribution, offer for sale, or sale of a large capacity magazine:

- by a licensed firearms manufacturer for the purposes of sale to any branch of the armed forces of the United States or the state of Washington, or to a law enforcement agency in this state for use by that agency or its employees for law enforcement purposes;
- by a dealer that is properly licensed under federal and state law for the purpose of sale to any branch of the armed forces of the United States or the state of Washington, or to a law enforcement agency in this state for use by that agency or its employees for law enforcement purposes; or
- by a dealer that is properly licensed under federal and state law where the dealer acquires the large capacity magazine from a person legally authorized to possess or transfer the large capacity magazine for the purpose of selling or transferring the large capacity magazine to a person who does not reside in this state.

A violation is a gross misdemeanor offense.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: I believe that our 2nd amendment constitutional rights have to be balanced with our underlying right to life and liberty. High capacity magazines make it easy for shooters to inflict maximum damage by allowing more shots to be fired without pausing to reload. These accessories are favored by mass shooters. All six of the deadliest shootings have involved large capacity magazines. This bill sets out a reasonable framework for protecting our safety while recognizing and respecting our constitutional rights.

This legislation is not meant to be punitive but responsive to a real public safety threat continuing to trend in a dangerous direction - mass shootings. That's why there is a grandfather clause and a range of thoughtful exceptions. This bill will look at prospective sales. Law abiding people can possess large capacity in authorized places.

CON: The actions of this bill could be moot. The court has already ruled in a California case that a law limiting the capacity of a magazine is unconstitutional. The California law is materially similar to this bill. You could be voting for an unconstitutional law.

There are seven million new gun owners since last year in these times of urban unrest. Many are women who are victims of crime and they have a right to defend themselves. This bill disproportionately punishes women, the disabled, the elderly.

**Persons Testifying:** PRO: Senator Marko Liias, Prime Sponsor; Gayle Davis, citizen; Pat Griffith, League of Women Voters of Washington; Kevin Lewis, citizen; Kristen Ellingboe, citizen; Nelago Nuunyang, citizen; Stacy Andersen, citizen; Jim and Ann Marie Parsons, citizen; Yasmin Trudeau, Attorney General's Office; Fred Rivara, doctor; Cherie Rowe Proctor, Grandmothers Against Gun Violence; Ami Strahan, citizen; Mike Van Dyke, doctor; April Schentrup, citizen; Ben Carr, citizen; Gwen Loosmore, citizen; Paul Kramer, citizen; Matt Vadnal, citizen; Emily Cantrell, citizen; Colin English, citizen; Jay Ward, citizen; Zach Elmore, citizen; Jane Weiss, citizen; Leanne Kennedy, citizen; Kim Gatbunton, citizen.

CON: Patrick Zunk, citizen; Duncan Clark, citizen; Aidan Nickels, citizen; Shane Criddlebaugh, citizen; Patrick Zecchino, citizen; Ivan Chongarov, citizen; Robert Gill, citizen; Nicole McGinnis, citizen; Andrew Cochran, citizen; Dalton Scott, citizen; Ernest Rodriguez, citizen; Michael McKinley, citizen; Ella Masters, citizen; Gerald Moczynski, citizen; Thomas Haynes, citizen; Michael Findlay, National Shooting Sports Foundation; Dan Mitchell, Sporting Systems; Curtis Bingham, Washington Civil Rights Association; Hector Rodriguez, citizen; Christopher Courtright, citizen; Justin Vice, citizen; Robin Ball, citizen; Nicole McGinnis, citizen; Abbey Story, citizen.

**Persons Signed In To Testify But Not Testifying:** PRO: Cheryl Berenson, Alliance for

Gun Responsibility; Stephen Paolini, citizen; Jeannie Shu, citizen; David O'Connor, citizen; Jennifer Dolan-Waldman, Grandmothers Against Gun Violence; Nicole Schiewetz, Xenia; Lisa Losh, Grandmothers Against Gun Violence; Carol Fish, citizen; Nicolas Duchastel de Montrouge, citizen; Sophia Moser, citizen; Abe Rios, citizen; Alexander Gray, citizen; Julia Hurd, citizen; Samantha Eden, citizen; Hazel Brown, citizen; Laura Hurtado-Webb, citizen; Kevin Collins, citizen; Eileen Alexander, citizen; Patrick Inniss, citizen; Maureen McGregor, citizen; Janette Ambauen, citizen; Chelsey Wright, citizen; Asukaa Jaxx, citizen; Dylan O'Connor, citizen; Jordan Jeffers, citizen; Jordan Waits, citizen; Renee Hopkins, citizen; Willa Jeffers, citizen; Sara Reyerson, citizen; Tiara Jewell, citizen; Arkley Arkley, citizen; Eva Johnson, citizen; Laurie Valliancourt, citizen; Kathy Jones, citizen; Bruce Becker, citizen; Laurie Brockmann, citizen; Sara Julin, citizen; Delight Roberts, citizen; John Kennedy, citizen; Ian Baldiwn, citizen; Sundae Delgado, citizen; Kennedy Lanne, citizen; Lenea Fritz, citizen; Paula Barnes, citizen; Laurie Werner, citizen; John Kingslight, citizen; Virginia Bearson, citizen; Jeff Panagos, citizen; Nyla Fritz, citizen; Sandra Bensky, citizen; Max Booher, citizen; Stacey Sanner, citizen; Megan Koznek, citizen; Judy Bentley, citizen; Daniel Kraus, citizen; Paul Benz, citizen; Sandy Krauss, citizen; Joe Kunzler, citizen; Dominick Bergeron, citizen; Anita Latch, citizen; Carolyn Benhard, citizen; John Lederer, citizen; Bharti Bharani, citizen; Deborah Leslie, citizen; Nancy Boespflug, citizen; Glenn Lestz, citizen; Antoinette Bonsignore, citizen; Lynne Levine, citizen; Zachary Locken, citizen; Katherine Boyette, citizen; Shannon Mayo, citizen; Kevin Branon, citizen; Susan McBain, citizen; Jason Breeze, citizen; Stacey Stanner, citizen; Sabryna McNally, citizen; Cinnamon Brown, citizen; Heidi Rutledge, citizen; Ellen Menshew, citizen; Claire Cunningham, citizen; Dawn Petricciani, citizen; Kristen Michelle Donovan, citizen; Zach Silk, citizen; Jeannie Mitchell, citizen; Ray Moser, citizen; Mathew Bellew, citizen; Tim Burns, citizen; Tim Moses, citizen; Elizabeth Heath, citizen; Coralie Burr, citizen; Andrew Kaplowitz, citizen; Roberta Nestaas, citizen; Beth Call, citizen; Justin Camarat, citizen; Rachel Van Gelder, citizen; Timothy Noonan, citizen; Tamara Ritchie, citizen; Zachary Carstensen, citizen; Edward Humble, citizen; Roger Nystrom, citizen; David O'Connor, citizen; Andrew Caughie, citizen; Richard Osborn, citizen; June Campell, citizen; Patricia Otley, citizen; Jenny Clauson, citizen; Linda Clifton, citizen; Michael Paolini, citizen; Judith Cohen, citizen; Patrick Parisot, citizen; Susan Paro, citizen; Ann Cook, citizen; Leeroy Perkins, citizen; Yanah Cook, citizen; Patricia Perron, citizen; Malcolm Cumming, citizen; Annie Phillips, citizen; Brian Cutler, citizen; Pop Octavian, citizen; Sophia Damelio, citizen; Mike Ramey, citizen; David Dittimore, citizen; David Ringlee, citizen; Katherine Roscher, citizen; Jesse Thompson, citizen; Nancy Salovich, citizen; Alyssa Dayley, citizen; Sean Dittrich, citizen; Susan Schulkin, citizen; Erin Senge, citizen; Charles Domingue, citizen; Jean Marie Dreyer, citizen; Goldie Silverman, citizen; Tina Simcich, citizen; Nicolas Duchastel, citizen; Susan Simon, citizen; Melissa Dunbar, citizen; Luisa Recalcati, citizen; Nancy Hevly, citizen; Tamara Sloan Ritchie, citizen; Treyvon Dunbar, citizen; Kyra Humphrey, citizen; Erin Sloane, citizen; Jennifer Estroff, citizen; Thaddeus Smith, citizen; Mary WillAllen, citizen; Jeff Snow, citizen; Jon Younger, citizen; Susan Wilson, citizen; Marilyn Ellis, citizen; Raven Wilson, citizen; Gregory Sorlie, citizen; Aileen Willmoth, citizen; Ashley Sternberg, citizen; Joanne Engquist, citizen; Roger Williams, citizen; Donna Stringer, citizen; Connie Williams, citizen; Tamara Erickson,

citizen; Justine Stromberg, citizen; Frederic Webster, citizen; Erika Fairman, citizen; Shawn Stromme, citizen; Christine Warren, citizen; Gail Warren, citizen; John Fairman, citizen; Diane Studley, citizen; Winston Walker, citizen; Xander Waits, citizen; Summers Cherry, citizen; Niles Fairman, citizen; Eva Wahl, citizen; Elizabeth Sward, citizen; David Fish, citizen; Deborah Viertel, citizen; Mardel Tanquist, citizen; David Varnau, citizen; David Turnoy, citizen; Wesley Francis, citizen; Roger Tanquist, citizen; Michell Turley, citizen; Ian Taylor, citizen; Adrianna Hulscher, citizen; Richard Gellman, citizen; Debbie Hollyer, citizen; Margaret Graham, citizen; Janet Hoffman, citizen; Stephanie Gianarelli, citizen; Ana Hobson, citizen; Greg Hauth, citizen; Elizabeth Hauser, citizen; Kennedy Gwin, citizen; Richard Gibson, citizen; Amy Harmala, citizen; Maurice Hanks, citizen; Nancy Gilbert, citizen; Alice Goss, citizen; Meredith Goldstein, citizen; Matt Vadnal, citizen.

CON: Carter McKaughan, Montlake Investigations Group; Kristoffer Acusa, citizen; Micah Zeitz-Chua, citizen; Ozzie Gonzalez, citizen; Cory Rich, citizen; Henry Lohman, citizen; Ryan Lee, citizen; James Barrick, citizen; Todd Hooper, citizen; George Langer, citizen; Paul Trufasu, citizen; Brian Aragon, citizen; Jack Lamanna, citizen; Pierson Martin, citizen; Wesley Scott, citizen; Robert Kelpe, citizen; Alexander Black, citizen; David Ahrens, citizen; Mason Ludy, citizen; Kelly Wright, citizen; Shane Reichenbach, citizen; Jamie Simmons, citizen; Gregory Verrall, citizen; Dana Morgan, citizen; Logan Rose, citizen; Sergey Solyanik, Precise Shooter LLC; Frank Escalona, citizen; Garrett Clay, citizen; Marc Lein, citizen; Aaron Lyons, Black Rifle League LLC; Connor Lorio, Epsilon Northwest; Nathan Tynes, US Army; Daniel Studer, citizen; Brian Boldt, citizen; Davin Jaggard, citizen; Brandon Svenson, citizen; Jonathan Gibson, citizen; Eric Pratt, citizen; Tim Eyman, Permanent Offense; Eric Keller, citizen; Elias Tooloee, citizen; Al King, citizen; Spencer Moody, citizen; Philip Glassey, citizen; Eric Shaeffer, citizen; Jeff Lesser, citizen; Francis Lin, citizen; Igor Shishov, citizen; Leah Hill, citizen; Samuel Groetsch, citizen; Judi Holley, citizen; Benjamin Crocker, citizen; Paul Weisz, citizen; Tom Harleman, citizen; Benjamin Rist, citizen; Aaron Mueggenberg, citizen; Aoibheann Cline, Congressional Sportsmen's Foundation; Codi Winans, citizen; Tom Shofner, citizen; Steve Coffman, citizen; Heather Mullen, citizen; Grant Kulberg, citizen; Ian Johnson, former Fire/EMS; Michael Whiting, citizen; Dylan Covert, citizen; Rowan Meara, citizen; Gabriel Mesa, citizen; Kevin Montgomery, citizen; Cindy Nolen, citizen; Ian Stafford, citizen; George Beas, citizen; Frank Tassara, citizen; David Bell, citizen; Marcus Rhoades, citizen; Tyson Barber, citizen; Cameron Powell, citizen; William Pellow, citizen; Richard Hernandez, citizen; Christopher Huennekens, citizen; Jordan Cayabyab, citizen; Cameron Myers, citizen; Cooper Kirsch, citizen; Elliot Gluck, citizen; Garrett Remy, citizen; Jared Landin, citizen; Nick Justus, citizen; Niall James, citizen; Brian Johnson, citizen; Grant Jagelski, citizen; Colin Howes, citizen; Jared Newman, citizen; Seth Weeks, citizen; Steve Tomlin, citizen; Braden Stepp, citizen; Jonathan Byerly, citizen; Samuel Perez, citizen; Jeffrey Miller, Epsilon Northwest; Matt Selland, citizen; Austin Rollins, citizen; Samuel Blackmon, citizen; Romulo Almeda, citizen; Michael Crilly, citizen; Brennan Torretta, citizen; Chris Heintzelman, citizen; Jordan Rogers, citizen; Jack Trinneer, citizen; Kyle Cervi, citizen; John Warren, citizen; Elias Patten, Garrison Concepts, LLC; Samnang Preng, citizen; Michael Dawkins, citizen; Matthew Burnside, citizen; Adam Carney, citizen; Matthew Torretta, citizen; Conor Beh,



citizen; Ryan Rickman, citizen; Michael Lewis, citizen; Brooke Trueblood, citizen; Quinn Wilson, citizen; Caleb Stewart, citizen; Jean Van Der Merwe, citizen; Bill Larson, citizen; Patrick Daniels, citizen; Gary Steigman, citizen; Alexandro Britt Jr, citizen; Josh Schaan, citizen; Sean McCarty, citizen; Cheyenne DeLoach, citizen; Hongyi Yuan, citizen; William Davis, citizen; Jonathan Campbell, Focus Shooting LLC; Jace Kirkland, citizen; Jon Fairman, citizen; Isaam Akhtar, citizen; Matthew Brancato, citizen; Joshua Ingalls, citizen; Doug Miller, citizen; Samuel Alexander, citizen; Logan Moore, citizen; Alexandra Gordon, citizen; George Penn, citizen; Luis Berbesi, citizen; Cesar Raudez, citizen; Jason Parker, citizen; Nicholas Pruner, citizen; Tyler Maxfield, citizen; Morgan Bruner, citizen; Morgan Sides, citizen; Sam Abbott, citizen; Daelin Cavanaugh, citizen; Anthony Siverson, citizen; Luke Martin, citizen; Zhibiao Li, citizen; Cody Spraycar, citizen; Justin Lucas, citizen; Victor Davis, citizen; Jake Jacobson, citizen; Samuel Koontz, citizen; Josiah Morauski, citizen; Logan Piper, citizen; Brian Deal, citizen; Emerson Elliott, citizen; Dalton Ripplinger, citizen; Dillon Duncan, citizen; Rob Burns, Washington Arms Collectors; Kevin Wood, citizen; Keegan Dahm, citizen; Curtis Richman, citizen; David Westhaver, citizen; Brandan Chang-Barstow, citizen; Hunter Evans, citizen; William Clark, citizen; Chase Abbott, citizen; Matt Griffin, citizen; Maurice Glasco, citizen; Bob Ferguson, citizen.

OTHER: Jeffrey Slotnick, Setracon Incorporated.