

1 S.329

2 Introduced by Senator Baruth

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; firearms

6 Statement of purpose of bill as introduced: This bill proposes to enact the
7 following provisions related to firearms: (1) provide that stealing a firearm of
8 any value constitutes grand larceny; (2) increase the penalties for second or
9 subsequent offenses of firearms possession by prohibited persons; (3) prohibit
10 the possession of firearms by persons who have been found by a court to pose
11 a danger of harm to themselves or others as the result of a mental illness; (4)
12 prohibit the possession of machine guns; and (5) prohibit the possession of
13 firearms on premises licensed to serve alcohol.

14 An act relating to criminal procedures involving firearms

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 13 V.S.A. § 2501 is amended to read:

17 § 2501. GRAND LARCENY

18 (a) A person who steals from the actual or constructive possession of
19 another, other than from his or her person, money, goods, chattels, bank notes,
20 bonds, promissory notes, bills of exchange or other bills, orders, or certificates,

1 or a book of accounts for or concerning money, or goods due or to become due
2 or to be delivered, or a deed or writing containing a conveyance of land, or any
3 other valuable contract in force, or a receipt, release or defeasance, writ,
4 process, or public record, shall be imprisoned not more than 10 years or fined
5 not more than \$5,000.00, or both, if:

6 (1) the money or other property stolen exceeds \$900.00 in value; or

7 (2) the property stolen is a firearm of any value.

8 (b) As used in this section, "firearm" has the same meaning as in section
9 4017 of this title.

10 Sec. 2. 13 V.S.A. § 4017 is amended to read:

11 § 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;

12 CONVICTION OF VIOLENT CRIME

13 (a) A person shall not possess a firearm if the person has been convicted of
14 a violent crime.

15 (b) A person who violates this section shall:

16 (1) for a first offense, be imprisoned not more than two years or fined
17 not more than \$1,000.00, or both; or

18 (2) for a second or subsequent offense, be imprisoned not more than
19 three years or fined not more than \$5,000.00, or both.

20 (c) This section shall not apply to a person who is exempt from federal
21 firearms restrictions under 18 U.S.C. § 925(c).

1 (d) As used in this section:

2 (1)(A) “Firearm” means:

3 (i) any weapon (including a starter gun) that will or is designed to
4 or may readily be converted to expel a projectile by the action of an explosive;

5 (ii) the frame or receiver of any such weapon; or

6 (iii) any firearm muffler or firearm silencer.

7 (B) “Firearm” ~~shall~~ does not include an antique firearm.

8 (2) “Antique firearm” means:

9 (A) Any firearm (including any firearm with a matchlock, flintlock,
10 percussion cap, or similar type of ignition system) manufactured in or before
11 1898.

12 (B) Any replica of any firearm described in subdivision (A) of this
13 subdivision (2) if the replica:

14 (i) is not designed or redesigned for using rimfire or conventional
15 centerfire fixed ammunition; or

16 (ii) uses rimfire or conventional centerfire fixed ammunition that
17 is no longer manufactured in the United States and that is not readily available
18 in the ordinary channels of commercial trade.

19 (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle
20 loading pistol that is designed to use black powder or a black powder substitute
21 and that cannot use fixed ammunition. As used in this subdivision (C),

1 “antique firearm” ~~shall~~ does not include a weapon that incorporates a firearm
2 frame or receiver, a firearm that is converted into a muzzle loading weapon, or
3 any muzzle loading weapon that can be readily converted to fire fixed
4 ammunition by replacing the barrel, bolt, breechblock, or any combination
5 thereof.

6 (3) “Violent crime” means:

7 (A)(i) A listed crime as defined in subdivision 5301(7) of this title
8 other than:

9 (I) lewd or lascivious conduct as defined in section 2601 of this
10 title;

11 (II) recklessly endangering another person as defined in section
12 1025 of this title;

13 (III) operating a vehicle under the influence of alcohol or other
14 substance with either death or serious bodily injury resulting as defined in
15 23 V.S.A. § 1210(f) and (g);

16 (IV) careless or negligent operation resulting in serious bodily
17 injury or death as defined in 23 V.S.A. § 1091(b);

18 (V) leaving the scene of an accident resulting in serious bodily
19 injury or death as defined in 23 V.S.A. § 1128(b) or (c); or

20 (VI) a misdemeanor violation of chapter 28 of this title, relating
21 to abuse, neglect, and exploitation of vulnerable adults; or

1 (ii) a comparable offense and sentence in another jurisdiction if
2 the offense prohibits the person from possessing a firearm under 18 U.S.C.
3 § 922(g)(1) or 18 U.S.C. § 921(a)(20).

4 (B) An offense involving sexual exploitation of children in violation
5 of chapter 64 of this title; or a comparable offense and sentence in another
6 jurisdiction if the offense prohibits the person from possessing a firearm under
7 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

8 (C) A violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) (selling,
9 dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3) (selling or dispensing
10 LSD); 4233(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking heroin);
11 4234(b)(2) or (b)(3) (selling or dispensing depressants, stimulants, and
12 narcotics); 4234a(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking
13 methamphetamine); 4235(c)(2) or (c)(3) (selling or dispensing hallucinogenic
14 drugs); 4235a(b)(2) or (b)(3) (selling or dispensing Ecstasy), or a comparable
15 offense and sentence in another jurisdiction if the offense prohibits the person
16 from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
17 § 921(a)(20).

18 (D) A conviction of possession with intent to distribute a controlled
19 substance other than cannabis in another jurisdiction if the offense prohibits the
20 person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
21 § 921(a)(20).

1 Sec. 3. 13 V.S.A. § 4017a is amended to read:

2 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
3 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
4 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
5 POSSESSION OF FIREARMS

6 (a) A person shall not possess a firearm if the person:

7 (1) is a fugitive from justice;

8 (2) is the subject of a final relief from abuse order issued pursuant to
9 15 V.S.A. § 1103;

10 (3) is the subject of a final order against stalking issued pursuant to
11 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

12 ~~or~~

13 (4) is a person against whom charges are pending for:

14 (A) carrying a dangerous weapon while committing a felony in
15 violation of section 4005 of this title;

16 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
17 subchapter 1; or

18 (C) human trafficking or aggravated human trafficking in violation of
19 section 2652 or 2653 of this title; or

20 (5)(A)(i) has been found by the court to be a person in need of treatment
21 pursuant to section 4822 of this title and:

1 (I) not guilty by reason of insanity of a violent crime as defined
2 in section 4017 of this title; or

3 (II) incompetent to stand trial for an offense listed in
4 subdivision (4) of this subsection (a);

5 (ii) is the subject of a commitment order issued by the court
6 pursuant to section 4822 of this title and the offense charged was not a violent
7 crime; or

8 (iii) is the subject of a hospitalization order issued by the court
9 pursuant to 18 V.S.A. § 7617(b)(1) or (2) or a nonhospitalization order issued
10 by the court pursuant to 18 V.S.A. § 7617(b)(3).

11 (B) Subdivision (A) of this subdivision (5) shall not apply to a person
12 if the Family Division grants a petition for relief from firearms disability for
13 the person pursuant to section 4825 of this title.

14 (b) A person who violates this section shall:

15 (1) for a first offense, be imprisoned not more than two years or fined
16 not more than \$1,000.00, or both; or

17 (2) for a second or subsequent offense, be imprisoned not more than
18 three years or fined not more than \$5,000.00, or both.

19 (c) As used in this section:

20 (1) “Firearm” has the same meaning as in section 4017 of this title.

21 (2) “Fugitive from justice” means a person who has fled;

1 (A) to avoid prosecution for a ~~crime~~ Vermont criminal offense or for
2 an offense that would be a crime if committed in Vermont; or

3 (B) to avoid giving testimony in a criminal proceeding.

4 Sec. 4. 13 V.S.A. § 4022 is amended to read:

5 § 4022. BUMP-FIRE STOCKS; MACHINE GUNS; POSSESSION

6 PROHIBITED

7 (a) As used in this section:

8 (1) ~~“bump fire stock”~~ “Bump-fire stock” means a butt stock designed to
9 be attached to a semiautomatic firearm and intended to increase the rate of fire
10 achievable with the firearm to that of a fully automatic firearm by using the
11 energy from the recoil of the firearm to generate a reciprocating action that
12 facilitates the repeated activation of the trigger.

13 (2) “Machine gun” means any weapon that shoots, is designed to shoot,
14 or can be readily restored to shoot automatically more than one shot without
15 manual reloading, by a single function of the trigger. The term also includes
16 the frame or receiver of any such weapon; any part designed and intended
17 solely and exclusively, or combination of parts designed and intended, for use
18 in converting a weapon into a machine gun; and any combination of parts from
19 which a machine gun can be assembled if the parts are in the possession or
20 under the control of a person. The term does not include any weapon or other
21 item that is registered in the National Firearms Registration and Transfer

1 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and
2 Explosives, or that is otherwise not subject to that registration requirement.

3 (b) A person shall not possess a bump-fire stock or a machine gun. A
4 person who violates this subsection shall be imprisoned not more than one year
5 or fined not more than \$1,000.00, or both.

6 (c) The Department of Public Safety shall develop, promote, and execute a
7 collection process that permits persons to voluntarily and anonymously
8 relinquish bump-fire stocks prior to ~~the effective date of this section~~ October 1,
9 2018.

10 Sec. 5. 13 V.S.A. § 4028 is added to read:

11 § 4028. POSSESSION OF FIREARMS PROHIBITED ON PREMISES

12 LICENSED TO SERVE ALCOHOL

13 (a) A person shall not knowingly possess a firearm on premises where
14 alcohol is licensed to be served.

15 (b) A person who violates this section shall be imprisoned for not more
16 than one year or fined not more than \$1,000.00, or both.

17 (c) This section shall not apply to:

18 (1)(A) a second-class licensed premises, including a premises used for a
19 retail alcoholic beverage tasting permit;

20 (B) sidewalks or public highways that pass through an outside
21 premises for which a licensee holds an outside consumption permit;

1 (C) the premises for which a licensee holds a limited event permit,
2 special event permit, or special event serving permit; or

3 (D) a dining car for which a licensee holds a promotional railroad
4 tasting permit; or

5 (2) a firearm possessed by:

6 (A) a federal law enforcement officer or a law enforcement officer
7 certified as a law enforcement officer by the Vermont Criminal Justice Council
8 pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes;

9 (B) a law enforcement officer of another state who is authorized to
10 carry a firearm by the officer's state or local law enforcement agency and is
11 carrying the firearm for legitimate law enforcement purposes;

12 (C) a member of the Vermont National Guard, of the National Guard
13 of another state, or of the U.S. Armed Forces who is on duty and acting under
14 state or federal orders;

15 (D) any government officer, agent, or employee authorized to carry a
16 weapon and acting within the scope of that person's duties; or

17 (E) the holder of the license for the premises, provided that person is
18 not prohibited from possessing a firearm under state or federal law.

19 (d) The owner or operator of a premises where alcohol is licensed to be
20 served shall cause notice of the provisions of this section to be posted
21 conspicuously at each public entrance to the premises.

- 1 (e) As used in this section, “firearm” has the same meaning as in subsection
2 4017(d) of this title.
- 3 Sec. 6. EFFECTIVE DATE
- 4 This act shall take effect on passage.