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SENATE BILL 6049

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State of Washington

65th Legislature

2018 Regular Session

By Senators Frockt, Dhingra, Darneille, and Pedersen; by request of Attorney General

Prefiled 12/22/17.

1 AN ACT Relating to high capacity magazines; reenacting and  
2 amending RCW 9.41.010; adding a new section to chapter 9.41 RCW; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 9.41.010 and 2017 c 264 s 1 are each reenacted and  
6 amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Antique firearm" means a firearm or replica of a firearm not  
10 designed or redesigned for using rim fire or conventional center fire  
11 ignition with fixed ammunition and manufactured in or before 1898,  
12 including any matchlock, flintlock, percussion cap, or similar type  
13 of ignition system and also any firearm using fixed ammunition  
14 manufactured in or before 1898, for which ammunition is no longer  
15 manufactured in the United States and is not readily available in the  
16 ordinary channels of commercial trade.

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

21 (3) "Crime of violence" means:

1 (a) Any of the following felonies, as now existing or hereafter  
2 amended: Any felony defined under any law as a class A felony or an  
3 attempt to commit a class A felony, criminal solicitation of or  
4 criminal conspiracy to commit a class A felony, manslaughter in the  
5 first degree, manslaughter in the second degree, indecent liberties  
6 if committed by forcible compulsion, kidnapping in the second degree,  
7 arson in the second degree, assault in the second degree, assault of  
8 a child in the second degree, extortion in the first degree, burglary  
9 in the second degree, residential burglary, and robbery in the second  
10 degree;

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

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

17 (4) "Curio or relic" has the same meaning as provided in 27  
18 C.F.R. Sec. 478.11.

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

27 (6) "Family or household member" means "family" or "household  
28 member" as used in RCW 10.99.020.

29 (7) "Felony" means any felony offense under the laws of this  
30 state or any federal or out-of-state offense comparable to a felony  
31 offense under the laws of this state.

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

40 (9) "Felony firearm offense" means:

- 1 (a) Any felony offense that is a violation of this chapter;  
2 (b) A violation of RCW 9A.36.045;  
3 (c) A violation of RCW 9A.56.300;  
4 (d) A violation of RCW 9A.56.310;  
5 (e) Any felony offense if the offender was armed with a firearm  
6 in the commission of the offense.

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

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

13 (12) "Large capacity magazine" means an ammunition feeding device  
14 with the capacity to accept more than ten rounds of ammunition, or  
15 any conversion kit, part, or combination of parts, from which such a  
16 device can be assembled if those parts are in the possession or under  
17 the control of the same person, but shall not be construed to include  
18 any of the following:

19 (a) An ammunition feeding device that has been permanently  
20 altered so that it cannot accommodate more than ten rounds of  
21 ammunition;

22 (b) A twenty-two caliber tube ammunition feeding device; or

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

25 (13) "Law enforcement officer" includes a general authority  
26 Washington peace officer as defined in RCW 10.93.020, or a specially  
27 commissioned Washington peace officer as defined in RCW 10.93.020.  
28 "Law enforcement officer" also includes a limited authority  
29 Washington peace officer as defined in RCW 10.93.020 if such officer  
30 is duly authorized by his or her employer to carry a concealed  
31 pistol.

32 (~~(13)~~) (14) "Lawful permanent resident" has the same meaning  
33 afforded a person "lawfully admitted for permanent residence" in 8  
34 U.S.C. Sec. 1101(a)(20).

35 (~~(14)~~) (15) "Licensed collector" means a person who is  
36 federally licensed under 18 U.S.C. Sec. 923(b).

37 (~~(15)~~) (16) "Licensed dealer" means a person who is federally  
38 licensed under 18 U.S.C. Sec. 923(a).

39 (~~(16)~~) (17) "Loaded" means:

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

1 (b) Cartridges are in a clip that is locked in place in the  
2 firearm;

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

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

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

9 ~~((17))~~ (18) "Machine gun" means any firearm known as a machine  
10 gun, mechanical rifle, submachine gun, or any other mechanism or  
11 instrument not requiring that the trigger be pressed for each shot  
12 and having a reservoir clip, disc, drum, belt, or other separable  
13 mechanical device for storing, carrying, or supplying ammunition  
14 which can be loaded into the firearm, mechanism, or instrument, and  
15 fired therefrom at the rate of five or more shots per second.

16 ~~((18))~~(19) "Nonimmigrant alien" means a person defined as such  
17 in 8 U.S.C. Sec. 1101(a)(15).

18 ~~((19))~~ (20) "Person" means any individual, corporation,  
19 company, association, firm, partnership, club, organization, society,  
20 joint stock company, or other legal entity.

21 ~~((20))~~ (21) "Pistol" means any firearm with a barrel less than  
22 sixteen inches in length, or is designed to be held and fired by the  
23 use of a single hand.

24 ~~((21))~~ (22) "Rifle" means a weapon designed or redesigned, made  
25 or remade, and intended to be fired from the shoulder and designed or  
26 redesigned, made or remade, and intended to use the energy of the  
27 explosive in a fixed metallic cartridge to fire only a single  
28 projectile through a rifled bore for each single pull of the trigger.

29 ~~((22))~~ (23) "Sale" and "sell" mean the actual approval of the  
30 delivery of a firearm in consideration of payment or promise of  
31 payment.

32 ~~((23))~~ (24) "Secure gun storage" means a safe, gun safe, gun  
33 case, lock box, or other device that is designed to be or can be used  
34 to store a firearm and that is designed to be unlocked only by means  
35 of a key, combination, or other similar means, and that is  
36 constructed of such quality workmanship and material that it cannot  
37 be pried open or easily removed or defeated.

38 (25) "Serious offense" means any of the following felonies or a  
39 felony attempt to commit any of the following felonies, as now  
40 existing or hereafter amended:

- 1 (a) Any crime of violence;
- 2 (b) Any felony violation of the uniform controlled substances  
3 act, chapter 69.50 RCW, that is classified as a class B felony or  
4 that has a maximum term of imprisonment of at least ten years;
- 5 (c) Child molestation in the second degree;
- 6 (d) Incest when committed against a child under age fourteen;
- 7 (e) Indecent liberties;
- 8 (f) Leading organized crime;
- 9 (g) Promoting prostitution in the first degree;
- 10 (h) Rape in the third degree;
- 11 (i) Drive-by shooting;
- 12 (j) Sexual exploitation;
- 13 (k) Vehicular assault, when caused by the operation or driving of  
14 a vehicle by a person while under the influence of intoxicating  
15 liquor or any drug or by the operation or driving of a vehicle in a  
16 reckless manner;
- 17 (l) Vehicular homicide, when proximately caused by the driving of  
18 any vehicle by any person while under the influence of intoxicating  
19 liquor or any drug as defined by RCW 46.61.502, or by the operation  
20 of any vehicle in a reckless manner;
- 21 (m) Any other class B felony offense with a finding of sexual  
22 motivation, as "sexual motivation" is defined under RCW 9.94A.030;
- 23 (n) Any other felony with a deadly weapon verdict under RCW  
24 9.94A.825;
- 25 (o) Any felony offense in effect at any time prior to June 6,  
26 1996, that is comparable to a serious offense, or any federal or out-  
27 of-state conviction for an offense that under the laws of this state  
28 would be a felony classified as a serious offense; or
- 29 (p) Any felony conviction under RCW 9.41.115.
- 30 (~~(+24+)~~) (26) "Short-barreled rifle" means a rifle having one or  
31 more barrels less than sixteen inches in length and any weapon made  
32 from a rifle by any means of modification if such modified weapon has  
33 an overall length of less than twenty-six inches.
- 34 (~~(+25+)~~) (27) "Short-barreled shotgun" means a shotgun having one  
35 or more barrels less than eighteen inches in length and any weapon  
36 made from a shotgun by any means of modification if such modified  
37 weapon has an overall length of less than twenty-six inches.
- 38 (~~(+26+)~~) (28) "Shotgun" means a weapon with one or more barrels,  
39 designed or redesigned, made or remade, and intended to be fired from  
40 the shoulder and designed or redesigned, made or remade, and intended

1 to use the energy of the explosive in a fixed shotgun shell to fire  
2 through a smooth bore either a number of ball shot or a single  
3 projectile for each single pull of the trigger.

4 ~~((+27))~~ (29) "Transfer" means the intended delivery of a firearm  
5 to another person without consideration of payment or promise of  
6 payment including, but not limited to, gifts and loans. "Transfer"  
7 does not include the delivery of a firearm owned or leased by an  
8 entity licensed or qualified to do business in the state of  
9 Washington to, or return of such a firearm by, any of that entity's  
10 employees or agents, defined to include volunteers participating in  
11 an honor guard, for lawful purposes in the ordinary course of  
12 business.

13 ~~((+28))~~ (30) "Unlicensed person" means any person who is not a  
14 licensed dealer under this chapter.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW  
16 to read as follows:

17 (1) No person in this state may manufacture, possess, distribute,  
18 import, transfer, sell, offer for sale, purchase, or otherwise  
19 transfer any large capacity magazine except as authorized in this  
20 section.

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

23 (a) The possession of a large capacity magazine by a person who  
24 legally possessed the large capacity magazine on the effective date  
25 of this section, or possession of a large capacity magazine by a  
26 person who, on or after the effective date of this section, acquires  
27 possession of the large capacity magazine by operation of law upon  
28 the death of the former owner who was in legal possession of the  
29 large capacity magazine, provided the person in possession of the  
30 large capacity magazine can establish such provenance. A person who  
31 legally possesses a large capacity magazine under this subsection  
32 (2)(a) may not sell or transfer the magazine to any other person in  
33 this state other than to a licensed dealer, to a federally licensed  
34 gunsmith for the purpose of service or repair, or to a law  
35 enforcement agency for the purpose of permanently relinquishing the  
36 large capacity magazine;

37 (b) Any government officer, agent, or employee, member of the  
38 armed forces of the United States or the state of Washington, or law  
39 enforcement officer, to the extent that such person is otherwise

1 authorized to acquire or possess a large capacity magazine and does  
2 so while acting within the scope of his or her duties;

3 (c) The manufacture, offering for sale, sale, importation, or  
4 transfer of a large capacity magazine by a licensed firearms  
5 manufacturer for the purposes of sale to any branch of the armed  
6 forces of the United States or the state of Washington, or to a law  
7 enforcement agency in this state for use by that agency or its  
8 employees;

9 (d) The possession, offering for sale, sale, importation, or  
10 transfer of a large capacity magazine by a dealer that is properly  
11 licensed under federal and state law for the purpose of sale to any  
12 branch of the armed forces of the United States or the state of  
13 Washington, or to a law enforcement agency in this state for use by  
14 that agency or its employees for law enforcement purposes;

15 (e) The possession, offering for sale, sale, importation, or  
16 transfer of a large capacity magazine by a dealer that is properly  
17 licensed under federal and state law where the dealer acquires the  
18 large capacity magazine from a person legally authorized to possess  
19 or transfer the large capacity magazine under (a) of this subsection  
20 for the purpose of selling or transferring the large capacity  
21 magazine to a person who does not reside in this state;

22 (f) The transfer to and possession of a legally possessed large  
23 capacity magazine by a federally licensed gunsmith for the purposes  
24 of service or repair, and the return of the large capacity magazine  
25 to the lawful owner;

26 (g) The possession, offering for sale, sale, importation, or  
27 transfer of a large capacity magazine for the purpose of permanently  
28 relinquishing it to a law enforcement agency in this state;

29 (h) The importation or possession of a large capacity magazine  
30 for the purpose of lawfully participating in a sporting event  
31 officially sanctioned by a club or organization established in whole  
32 or in part for the purpose of sponsoring sport shooting events;

33 (i) The possession, importation, purchase, or transfer of a large  
34 capacity magazine by marshals, sheriffs, prison or jail wardens or  
35 their deputies, or other law enforcement officers of this or another  
36 state while acting within the scope of their duties, including such  
37 possession while not on duty, but specifically authorized by command  
38 staff and necessary for the performance of such duties;

39 (j) The possession of a large capacity magazine by law  
40 enforcement officers retired for service or physical disabilities,

1 when the large capacity magazine in question was acquired as part of  
2 the officer's separation from service;

3 (k) Members of the armed forces of the United States or of the  
4 national guard or organized services, when on duty;

5 (l) Officers or employees of the United States duly authorized to  
6 possess large capacity magazines;

7 (m) Any persons lawfully engaged in shooting at a duly licensed,  
8 lawfully operated shooting range; or

9 (n) The possession or transfer of a large capacity magazine for  
10 the purpose of permanently relinquishing it to a law enforcement  
11 agency in this state. A large capacity magazine relinquished to a law  
12 enforcement agency under this subsection must be destroyed.

13 (3) In order to continue to possess a large capacity magazine  
14 that was legally possessed on the effective date of this section, the  
15 person possessing the large capacity magazine shall:

16 (a) Store the large capacity magazine in a secure gun storage;  
17 and

18 (b) Possess the large capacity magazine only on property owned or  
19 immediately controlled by the person, or while engaged in the legal  
20 use of the large capacity magazine at a duly licensed firing range,  
21 or while engaged in a lawful outdoor recreational activity such as  
22 hunting, or while traveling to or from either of these locations for  
23 the purpose of engaging in the legal use of the large capacity  
24 magazine, provided that the large capacity magazine is stored  
25 unloaded and in a separate locked container during transport.

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

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