

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 01/21/2025

Check all that apply:

Bill Number: HB 38

Original

Correction

Amendment

Substitute

Sponsor: Rep. Kathleen Cates

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: POSSESSION OF WEAPON
CONVERSION DEVICE

Analysis: AAG Tyler Sciara

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Original: House Bill (“HB”) 38 proposes to create a new section of law in Chapter 30, Article 7 NMSA 1978 prohibiting the knowing possession or transportation of a weapon conversion device. A violation of the prohibition would be a third-degree felony, and possession of multiple individual weapon conversion devices would each constitute a separate offense.

A “weapon conversion device” is defined as a part or combination of parts designed and intended to convert a semiautomatic weapon into a fully automatic weapon.

A “semiautomatic weapon” is defined as a rifle, shotgun, or pistol that uses a portion of the energy of a firing cartridge or shell to both (a) extract the fired cartridge case or spent shell, and (b) chamber the next round, which requires a separate pull of the trigger to fire.

A “fully automatic weapon” means a weapon that shoots, is designed to shoot, or can be readily restored to shoot, more than one shot, without manual reloading, by a single and continuous held pull of the trigger.

HB 38 does not indicate an effective date, as a result the default effective date would be June 20, 2025.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

In 2024, the Supreme Court of the United States decided *Garland v. Cargill*, 602 U.S. 406 (2024). There the U.S. Supreme Court struck down the ATF’s regulatory classification of bump stocks (or, “weapon conversion devices”) as a “machinegun” under the National Firearms Act of 1934. 26 U.S.C. § 5845(b). It also noted a lack of legislative intent to include bump stocks within the machinegun prohibition. By expressly rejecting argument that bump stocks fall under the definition, it appears as though a Second Amendment challenge of this bill should fail – the right to bear arms is not implicated by the prohibition of something other than arms.

Following *Cargill*, the ATF mailed a notice to individuals who had their bump stocks confiscated, which noted that certain state and local laws may still prohibit the use, possession, and/or transfer of bump stocks. In 2024, California, Connecticut, Delaware, Florida, Hawaii, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Washington each have some form of bump stock ban.

Notably, the language used in HB 38 tracks the definition of Rhode Island’s law against the “modification of [a] semi-automatic weapon,” which has been in effect without issue since 2018. RI Gen L § 11-47-8.1 (2018).

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A