

LFC Requester: _____

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date February 6, 2025
Bill No: Senate Bill 279-280

Sponsor: Sens. O'Malley and Berghams,
and Reps. Andrea Romero,
Little, and Roybal Caballero
Amending Sections of the
Controlled Substances Act

**Agency Name
and Code** LOPD-280
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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 Expenditure 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)

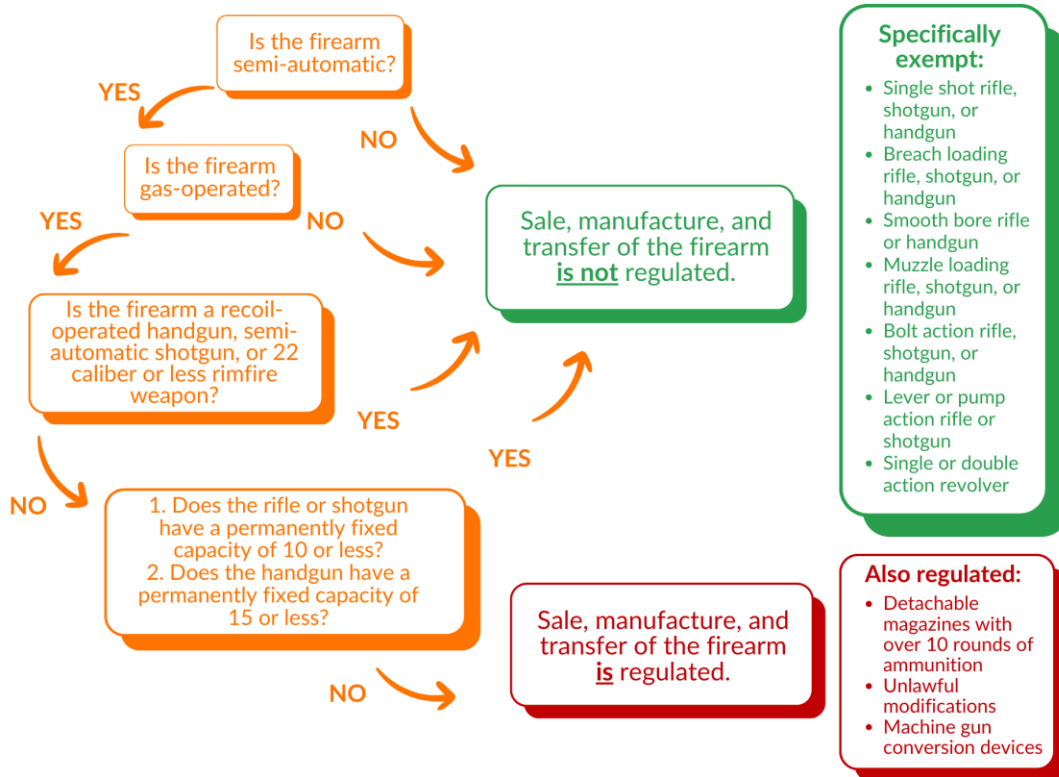
Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill appears to be virtually identical to proposed federal legislation, often referred to as the GOSAFE Act. See <https://www.heinrich.senate.gov/gosafe> for an explanation, including the following flow chart:



The legislation purports to take a “new” approach to gun regulation by regulating based on the method of reloading a semi-automatic weapon. Specifically, if the weapon is a “gas regulated” semi-automatic firearm, then it is probably regulated by the bill (there are exceptions). Gas-operated generally means:

“In gas-operation, a portion of high-pressure gas from the cartridge being fired is used to power a mechanism to dispose of the spent case and insert a new cartridge into the chamber. Energy from the gas is harnessed through either a port in the barrel or a trap at the muzzle. This high-pressure gas impinges on a surface such as a piston head to provide motion for unlocking of the action, extraction of the spent case, ejection, cocking of the hammer or striker, chambering of a fresh cartridge, and locking of the action.”

https://en.wikipedia.org/wiki/Gas-operated_reloading

The bill also regulates certain “high capacity” (more than 10 rounds) magazines.

If enacted, the bill would prohibit a wide swath of semi-automatic weapons currently in use in the U.S. (such as the AR-15 rifle), even “virtually every type of semi-automatic rifle and many AR-type pistols” according to critics. <https://www.themeateater.com/hunt/firearm-hunting/this-bill-would-ban-most-semi-automatic-rifles-in-the-u-s>

Notes on Comparison to House Bill 137, 2024 Regular Session

This bill, Senate Bill 279, appears to be largely identical to House Bill 137 which was introduced in the 2024 Regular Session. Last year’s FIR detailing the provisions of House Bill 137, which covers most of the language included in Senate Bill 279, can be accessed here: <https://www.nmlegis.gov/Sessions/24%20Regular/firs/HB0137.PDF>.

However, there are some differences which are noted here. This bill adds new definitions in Section 2 of the bill, for “fixed magazine”, “immediate family member”, and “rapid fire device”. Because “immediate family member” is defined in Section 2 of this bill, it is not defined in other parts of the bill. This new bill also omits a definition for “machine gun attachment”, but it appears the definition for “rapid fire device,” mirrors that of last year’s definition for “machine gun attachment.”

Regarding Section 4, which prohibits large-capacity ammunition feeding devices, this bill specifies that the transfer of such feeding devices is not prohibited if the transfer is “to a person residing in another state or maintaining it in another state or to a licensed firearms dealer.”

Regarding Section 5, this bill substitutes “Rapid Fire Devices” for last year’s use of “Machine Gun Attachments.” This section prohibits the importation, sale, manufacture, transfer, receipt or possession of a machine gun or rapid fire device. Whoever violates the provisions of this section is guilty of a fourth-degree felony.

Regarding Section 7, this bill adds some new language regarding certification of semiautomatic firearms. First, this bill requires owners of gas-operated semiautomatic firearms to complete a certification form, and if prior to January 1, 2026, submit the form to

either a licensed firearms dealer or to the Attorney General, and if after January 1, 2026, submit the form to the attorney general. In addition, the Attorney General is required, in consultation with the Department of Public Safety, to promulgate rules governing the certification form and submission process, including some of those rules in this bill.

The bill contains the same penalties as last year's bill: a violation of the provisions of the bill is a misdemeanor, and a felony or attempted felony committed while in possession of a gas-operated semiautomatic firearm or large-capacity ammunition feeding device is guilty of a fourth degree felony. This bill also contains a severability clause.

FISCAL IMPLICATIONS

Fiscal implications cannot be predicted with any certainty. Calculations of public defender impact would depend on the frequency with which the enacted statute would be violated, which is hard to predict. Given widespread non-compliance should the bill be enacted (even 'civil disobedience'), there is potentially a substantial, but unquantifiable, increase in public defender workload and concomitant expenses.

SIGNIFICANT ISSUES

This bill, if enacted, would almost certainly face legal challenges, including challenges to the constitutionality of the entirety of the bill as well as of specific aspects of the bill. For example, critics of the federal analog of this bill "argue that the bill is unconstitutional because it would ban an entire class of firearms that are in common use, which the Supreme Court rejected in *District of Columbia v. Heller*." <https://www.themeateater.com/hunt/firearm-hunting/this-bill-would-ban-most-semi-automatic-rifles-in-the-u-s>

Firearm rights are a very contentious and heavily litigated area of law. The precise legal limits of such regulation are currently uncertain (particularly rights under the New Mexico state constitution), making predictions about the constitutionality of the bill difficult. As noted in last year's FIR, there is uncertainty whether the provisions of this bill would withstand challenges brought since the Supreme Court's decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022).

Moreover, it is unclear if this bill would survive challenge under Article 2, Section 6 of the New Mexico Constitution. N.M. Const. art. II, § 6 ("No law shall abridge the right of the citizen to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes").

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS