

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 6 FEB, 2025 *Check all that apply:*  
**Bill Number:** SB0279 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. M Debbie O'Malley,  
 Sen.Heather Berghmans, Sen.  
 Andrea Romero, Sen. Charlotte  
 Little, Sen. Patricia Roybal  
 Cabellaro  
**Short Title:** Gas-Operated Semiautomatic  
 Firearms Exclusions Act

**Agency Name and Code Number:** 790 – Department of Public Safety  
**Person Writing:** Alexander J. Rodriguez  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

SB 279 is materially similar to 2024 HB 137.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Bill 279 (SB 279), cited as the Gas-Operated Semiautomatic Firearms Exclusion Act and inspired by similar legislation at the federal level, introduces the measure at the state level — seeking to outlaw gas-operated semi-automatic assault weapons (but not traditional recoil operated firearms such as most pistols), large-capacity magazines, machine guns that are not lawfully registered with the ATF, and rapid fire devices in an effort to curb gun violence while carving out exemptions for semi-automatic handguns, shotguns and other popular firearms.

This bill is designed to decrease instances and severity of gun violence by outlawing on the state level semi-automatic firearms that harnesses or traps a portion of the high-pressure gas from a fired round to cycle the action, large-capacity magazines with the capacity to contain more than 10 rounds, and rapid fire devices designed to convert semiautomatic firearms' rate of fire to approximate that of a fully automatic firearm. Notably, however, the bill allows for the lawful possession of popular firearms, including shotguns and semi-automatic handguns and rifles that would otherwise be regulated so long as they have a fixed magazine that has a capacity of 10 or less rounds. For purposes of this bill, "fixed magazine" is defined as an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device could not be readily removed without disassembly, and thus not requiring magazines be permanently fixed to firearms for the firearm to be exempted.

Subject to certain exemptions and beginning on July 1, 2025, the bill would outlaw the import, sale, manufacture, transfer, or receipt of gas-operated semiautomatic firearms, devices designed to convert semiautomatic firearms rate of fire to approximate that of a fully automatic firearm, and large-capacity ammunition feeding devices, defined as having an overall capacity to accept more than 10 rounds.

Notably, the bill would allow for individuals to retain possession of gas-operated semi-automatic assault weapons while on their own private property, on another's private property not open to the public and with the property owner's permission, on the premises of a licensed firearms dealer, engaged in the legal use of the firearm at a licensed firing range or shooting competition, or while traveling with the unloaded firearm enclosed in a container so long as the firearm was lawfully manufactured and transferred prior to July 1, 2025, and confidentially certified with a licensed federal firearm dealer located in New Mexico or with the Attorney General on a system developed by the AG, in consultation with DPS. No later than January 1, 2026, the AG in consultation with DPS, shall identify and publish on the AG's website a list of gas-operated semiautomatic firearms subject to exclusion in accordance with the definitions contained within Section 3 of the bill. Grandfathered firearms can be transferred to immediate family members, federal firearms dealers, or those living in other states. The bill would also allow for individuals to retain possession of large-capacity magazines that were manufactured before July 1, 2025.

The bill allows non-residents to transport by vehicle within the state any unloaded firearm, device, or combination of parts of a regulated firearm under the bill over a twenty-four-hour period so long as the firearm or device or parts thereof are stored and not readily accessible from the passenger compartment. Non-residents who move to the state in possession of a firearm, device, or parts described in the bill shall have sixty days to comply with the state requirements, including completing and submitting a certification with the AG. The bill also creates exemptions for the United States government and its departments and agencies, Indian nations, pueblos, and tribes, the state, or any agency or political subdivisions thereof.

The sanction for a violation of the Act is generally a misdemeanor, unless a person attempts to commit a felony offense while in possession of an enumerated firearm or accessory, which would constitute a fourth-degree felony. Additionally, unlawfully possessing, using, or transferring a machine gun or rapid fire device is a fourth-degree felony.

## FISCAL IMPLICATIONS

The funding for this initiative is indeterminate, as precise costs cannot be established until the bill is enacted. However, it is unlikely the bill will have much of a fiscal impact on DPS.

## SIGNIFICANT ISSUES

Assault weapons, which are referred to as gas-operated semiautomatic firearms in the bill, are generally high-powered semiautomatic firearms where each round has up to four times the muzzle velocity of a handgun round. This means that each round from an assault weapon inflicts greater damage to the human body than a round from a typical handgun. Moreover, gas-operated semiautomatic weapons can load and fire subsequent rounds much faster than manually operated firearms or semiautomatic firearms that use recoil to cycle the action. When combined with high-capacity magazines, they allow a shooter to fire more rounds over a short period without pausing to reload.

Assault weapons and high-capacity magazines are frequently used in the violence that plagues our nation. From 2015 to 2022, mass shootings with four or more people killed where an assault weapon was used resulted in nearly six times as many people shot, more than twice as many people killed, and 23 times as many people wounded on average compared to those that did not involve the use of one. New Mexico has also been victim to these mass shootings. For example, in May of 2023, an 18-year-old man used an assault rifle to shoot more than 100 rounds in Farmington—killing three people and injuring six others.

Research shows a prohibition on assault weapons can prevent mass shooting fatalities and active shooter events. A study found that the federal prohibition on assault weapons and high-capacity magazines was associated with a significant decrease in public mass shootings and related casualties, preventing at least 11 public mass shootings during the 10 years it was in effect. The researchers also estimated that had the law remained in effect from 2005 through 2019, it would have prevented 30 mass shootings that resulted in the death of 339 people and wounded 1,139 more. *See* Lori Post, et al, *Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis*, JMIR Public Health Surveill. (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8103291/>.

By focusing on particularly dangerous weapons, this bill does not run afoul of the Second Amendment. Notably, the Seventh Circuit Court of Appeals analyzed a similar bill passed by the State of Illinois and concluded that it has a “strong likelihood” of being found constitutional. *See Bevis v. City of Naperville, Illinois*, 85 F.4th 1175 (7th Cir. 2023). Further in 2023, the United States Supreme Court declined to preliminarily enjoin this law—suggesting that the Court agreed with the Seventh Circuit’s conclusion. Following the US Supreme Court’s declination of the case, it returned to the Illinois district court captioned as *National Association for Gun Rights (NAGR) v. Naperville* where the trial judge’s preliminary injunction of the ban was immediately put on hold by the same Seventh Circuit Court of Appeals in December 4, 2024, thus leaving the law on the books and enforceable in Illinois.

Additionally, a federal district court held that Delaware’s law prohibiting assault weapons and large capacity magazines was likely constitutional. *See Delaware State Sportsmen's Ass'n, Inc. v. Delaware Dep't of Safety & Homeland Sec.*, 664 F. Supp. 3d 584 (D. Del. 2023). The Third Circuit Court of appeals affirmed the district court, and the Supreme Court declined to enjoin the law. *See Delaware State Sportsmen's Ass'n, Inc. v. Delaware Dep't of Safety & Homeland Sec.*, 108 F.4th 194 (3d Cir. 2024), *cert. denied sub nom. Gray v. Jennings*, 2025 WL 76443 (U.S. Jan. 13, 2025).

Likewise, the several Courts of Appeals have preliminarily upheld other states' law prohibiting high capacity magazines. *See, e.g., Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38 (1st Cir. 2024); *Hanson v. D.C.*, 120 F.4th 223 (D.C. Cir. 2024).

Thus, virtually all current caselaw suggests this bill is constitutional.

## **PERFORMANCE IMPLICATIONS**

Regulating these high powered and unusually dangerous weapons and devices will enhance public and officer safety by reducing the lethality of mass shootings and violent confrontations. These weapons, designed for rapid fire and high-capacity ammunition, enable attackers to inflict mass casualties in seconds, overwhelming law enforcement and limiting civilian ability to escape. By restricting their availability, the risk of large-scale attacks decreases, giving police better control over dangerous situations and reducing the number of officers and civilians killed or injured in the line of fire. Such regulations also help prevent criminals from accessing military-style firepower, making communities safer while supporting responsible gun ownership.

## **ADMINISTRATIVE IMPLICATIONS**

The bill requires DPS to consult and advise the Attorney General on various aspects of the bill relating to the creation and maintenance of a list of regulated firearms, the manner of marking large capacity magazines, and the certification of certain regulated firearms.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB 279 is materially similar to 2024 HB 137.

## **TECHNICAL ISSUES**

No technical issues to DPS.

## **OTHER SUBSTANTIVE ISSUES**

No other substantive issues to DPS.

## **ALTERNATIVES**

Not applicable as no impact to DPS.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo will remain.

## **AMENDMENTS**

None at this time.