

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 137

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO FIREARMS; ENACTING THE GAS-OPERATED SEMIAUTOMATIC
FIREARMS EXCLUSION ACT; PROHIBITING THE IMPORTATION, SALE,
MANUFACTURE, TRANSFER, RECEIPT OR POSSESSION OF GAS-OPERATED
SEMIAUTOMATIC FIREARMS; PROHIBITING LARGE-CAPACITY AMMUNITION
FEEDING DEVICES; PROHIBITING DEVICES THAT MATERIALLY INCREASE
THE RATE OF FIRE OF A FIREARM OR APPROXIMATE THE ACTION OR RATE
OF FIRE OF A MACHINE GUN; PROHIBITING MACHINE GUNS AND MACHINE
GUN ATTACHMENTS; REQUIRING THE ATTORNEY GENERAL TO LIST GAS-
OPERATED SEMIAUTOMATIC FIREARMS SUBJECT TO THE PROVISIONS OF
THE GAS-OPERATED SEMIAUTOMATIC FIREARMS EXCLUSION ACT;
PROVIDING FOR APPEALS OF FIREARMS LISTED BY THE ATTORNEY
GENERAL; REQUIRING THE CERTIFICATION OF SEMIAUTOMATIC FIREARMS;
PROVIDING EXCEPTIONS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 SECTION 1. A new section of Chapter 30, Article 7 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
4 "Gas-Operated Semiautomatic Firearms Exclusion Act"."

5 SECTION 2. A new section of Chapter 30, Article 7 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] DEFINITIONS.--As used in the Gas-Operated
8 Semiautomatic Firearms Exclusion Act:

9 A. "ammunition" means ammunition or cartridge
10 cases, primers, bullets or propellant powder designed for use
11 in any firearm;

12 B. "cycle the action" means to extract the fired
13 cartridge case, chamber the next cartridge and prepare the
14 firing mechanism to fire again;

15 C. "firearm" means any weapon that is designed to
16 expel a projectile by an explosion or the frame or receiver of
17 any such weapon;

18 D. "gas-operated" means any firearm that harnesses
19 or traps a portion of the high-pressure gas from a fired
20 cartridge to cycle the action using:

21 (1) a long stroke piston, in which gas is
22 vented from the barrel to a piston that is mechanically fixed
23 to the bolt group and moves to cycle the action;

24 (2) a short stroke piston, in which gas is
25 vented from the barrel to a piston that moves separately from

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1 the bolt group so that the energy is imparted through a gas
2 piston to cycle the action;

3 (3) a system that traps and vents gas from
4 either the barrel or the chamber to directly strike or impinge
5 the bolt, bolt carrier or slide assembly to unlock and cycle
6 the action;

7 (4) a hybrid system that combines elements of
8 a system described in Paragraph (3) of this subsection with a
9 system described in Paragraph (1) or (2) of this subsection to
10 capture gas vented from the barrel to cycle the action; or

11 (5) a blowback-operated system that directly
12 uses the expanding gases of the ignited propellant powder
13 acting on the cartridge case to drive the breechblock or breech
14 bolt rearward;

15 E. "large-capacity ammunition feeding device":

16 (1) means a magazine, belt, drum, feed strip,
17 helical feeding device or similar device, including any such
18 device joined or coupled with another in any manner, that:

19 (a) has an overall capacity of, or that
20 can be readily restored, altered or converted to accept, more
21 than ten rounds of ammunition; and

22 (b) is not permanently fixed; and

23 (2) does not include any device designed to
24 accept, and capable of operating only with, .22 or less caliber
25 rimfire ammunition;

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1 F. "machine gun" has the same meaning as set forth
2 in Section 5845(b) of the National Firearms Act and includes a
3 semiautomatic firearm that has been modified in any way that:

4 (1) materially increases the rate of fire of
5 the firearm; or

6 (2) approximates the action or rate of fire of
7 a machine gun;

8 G. "machine gun attachment":

9 (1) means a manual, power-driven, or
10 electronic device primarily designed or redesigned so that if
11 the device is attached to a semiautomatic firearm, the device:

12 (a) materially increases the rate of
13 fire of the firearm; or

14 (b) approximates the action or rate of
15 fire of a machine gun; or

16 (2) means a device, part or combination of
17 parts that is designed and functions to materially increase the
18 rate of fire of the semiautomatic firearm by eliminating the
19 need for the operator of the firearm to make a separate
20 movement for each individual function of the trigger; and

21 H. "semiautomatic firearm" means any firearm that:

22 (1) upon initiating the firing sequence, fires
23 the first chambered cartridge and uses a portion of the energy
24 of the firing cartridge to:

25 (a) extract the expended cartridge case;

- 1 (b) chamber the next round; and
- 2 (c) prepare the firing mechanism to fire
- 3 again;

4 (2) requires a separate pull, release, push or
5 initiation of the trigger to fire each cartridge; and

6 (3) is not a machine gun."

7 SECTION 3. A new section of Chapter 30, Article 7 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] PROHIBITING THE IMPORTATION, SALE,
10 MANUFACTURE, TRANSFER, RECEIPT OR POSSESSION OF GAS-OPERATED
11 SEMIAUTOMATIC FIREARMS--PROVIDING EXCEPTIONS.--

12 A. Beginning July 1, 2024, and except as provided
13 in Subsection C or D of this section or Section 8 of the Gas-
14 Operated Semiautomatic Firearms Exclusion Act, it is unlawful
15 for any person to import, sell, manufacture, transfer or
16 receive any of the following firearms, devices or combinations
17 of parts:

18 (1) a firearm that is included on the list of
19 prohibited gas-operated semiautomatic firearms identified by
20 the attorney general;

21 (2) a modified non-prohibited firearm that, as
22 modified, operates as a firearm included on the list of
23 prohibited gas-operated semiautomatic firearms identified by
24 the attorney general;

25 (3) a combination of parts that is designed

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1 and functions to modify an otherwise non-prohibited firearm so
2 that the firearm, as modified, operates as a gas-operated
3 semiautomatic firearm included on the list of prohibited gas-
4 operated semiautomatic firearms identified by the attorney
5 general;

6 (4) a combination of parts that is designed to
7 be assembled into a firearm that operates as a firearm included
8 on the list of prohibited gas-operated semiautomatic firearms
9 identified by the attorney general; or

10 (5) a combination of parts that functions to
11 produce a gas-operated semiautomatic cycling action.

12 B. Beginning January 1, 2025, and except as
13 provided in Subsection C or D of this section or Section 8 of
14 the Gas-Operated Semiautomatic Firearms Exclusion Act, it is
15 unlawful for any person to possess a firearm, device or
16 combination of parts described in Paragraphs (1) through (5) of
17 Subsection A of this section.

18 C. Subsections A and B of this section do not
19 apply:

20 (1) to the importation or manufacture by or
21 for, sale or transfer to or possession by or under the
22 authority of the United States or any department or agency
23 thereof or a state or an Indian nation, tribe or pueblo or a
24 department, an agency or a political subdivision thereof;

25 (2) to the importation or manufacture for,

1 sale or transfer to, or possession by, a licensee under Title 1
2 of the federal Atomic Energy Act of 1954 for purposes of
3 establishing and maintaining an on-site physical security
4 protection system and security organization required by federal
5 law, or the transfer to, or possession by, a contractor of such
6 a licensee on-site for such purposes or off-site for purposes
7 of licensee-authorized training or transportation of nuclear
8 materials;

9 (3) to the possession of a gas-operated
10 semiautomatic firearm that was lawfully:

11 (a) manufactured prior to July 1, 2024;

12 (b) transferred by the manufacturer to
13 another party; and

14 (c) certified by the owner, in
15 accordance with Section 7 of the Gas-Operated Semiautomatic
16 Firearms Exclusion Act, prior to January 1, 2025;

17 (4) to the transfer and possession of a
18 gas-operated semiautomatic firearm that is lawfully possessed
19 before January 1, 2025 in accordance with Paragraph (3) of this
20 subsection, in which:

21 (a) the transferee is an immediate
22 family member of the transferor; and

23 (b) upon taking possession of the
24 firearm, the person to whom the firearm was transferred
25 certifies the firearm in accordance with Section 7 of the Gas-

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1 Operated Semiautomatic Firearms Exclusion Act; or

2 (5) to the transfer of a gas-operated
3 semiautomatic firearm to a person residing in another state or
4 maintaining it in another state or to a licensed firearms
5 dealer; provided that if the transfer takes place after January
6 1, 2025, the person transferring the firearm shall have first
7 certified it in accordance with Section 7 of the Gas-Operated
8 Semiautomatic Firearms Exclusion Act.

9 D. A gas-operated semiautomatic firearm that is
10 lawfully certified in accordance with the process established
11 by the attorney general pursuant to Section 7 of the Gas-
12 Operated Semiautomatic Firearms Exclusion Act may only be
13 possessed:

14 (1) on private property owned or immediately
15 controlled by the person;

16 (2) on private property that is not open to
17 the public with the express permission of the person who owns
18 or immediately controls such property;

19 (3) while on the premises of a licensed
20 firearms dealer or gunsmith for the purpose of lawful transfer
21 or repair of the firearm;

22 (4) while engaged in the legal use of the
23 firearm at a properly licensed firing range or sport shooting
24 competition venue; or

25 (5) while traveling to or from the locations

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1 described in Paragraphs (1) through (4) of this subsection;
2 provided that the firearm is unloaded and the firearm is
3 enclosed in a case, firearm carrying box, shipping box or other
4 container.

5 E. Licensed firearms dealers shall mark all gas-
6 operated semiautomatic firearms imported or manufactured under
7 Paragraphs (1) and (2) of Subsection C of this section after
8 January 1, 2025 in the manner prescribed by the attorney
9 general before any transfer under Paragraphs (1) and (2) of
10 Subsection C of this section.

11 F. For purposes of this section:

12 (1) "gas-operated semiautomatic firearm" does
13 not include:

14 (a) any firearm designed to accept, and
15 capable of operating only with, .22 or less caliber rimfire
16 ammunition;

17 (b) a rifle that: 1) is a single-shot
18 rifle; 2) is a breech loading rifle with a capacity not to
19 exceed two rounds of ammunition; 3) is a muzzleloading rifle or
20 smoothbore shoulder-fired firearm; 4) uses a bolt action, lever
21 action or pump action to cycle the action of the rifle; or 5)
22 has a permanently fixed magazine with a capacity not to exceed
23 ten rounds of ammunition that cannot be converted or changed to
24 accept more than ten rounds of ammunition;

25 (c) a shotgun that: 1) is a single-shot

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1 shotgun; 2) is a breech loading shotgun with a capacity not to
2 exceed two rounds of ammunition; 3) is a muzzleloading shotgun;
3 4) uses a bolt action, lever action or pump action to cycle the
4 action of the shotgun; 5) is a semiautomatic or autoloading
5 shotgun that does not use detachable magazines; or 6) has a
6 permanently fixed magazine with a capacity not to exceed ten
7 rounds of ammunition that cannot be converted or changed to
8 accept more than ten rounds of ammunition;

9 (d) a breech loading firearm capable of
10 holding a single cartridge and a single shotgun shell
11 simultaneously that must be reloaded after firing those rounds
12 of ammunition; or

13 (e) a handgun that: 1) is a single-shot
14 handgun; 2) is a breech loading handgun with a capacity not to
15 exceed two rounds of ammunition; 3) is a muzzleloading or
16 smoothbore handgun; 4) uses a bolt action to cycle the action
17 of the handgun; 5) is a single- or double-action revolver; 6)
18 is a single- or double-action semiautomatic handgun that uses
19 recoil to cycle the action of the handgun; or 7) has a
20 permanently fixed magazine with a capacity not to exceed ten
21 rounds of ammunition that cannot be converted or changed to
22 accept more than ten rounds of ammunition; and

23 (2) "immediate family member" means a spouse,
24 a parent, a child, a sibling, a grandparent, a grandchild, a
25 great-grandchild, a niece, a nephew, a first cousin, an aunt or

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1 an uncle."

2 SECTION 4. A new section of Chapter 30, Article 7 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] PROHIBITING LARGE-CAPACITY AMMUNITION
5 FEEDING DEVICES.--

6 A. Except as provided in Subsections B and C of
7 this section and Section 8 of the Gas-Operated Semiautomatic
8 Firearms Exclusion Act, on or after July 1, 2024, it is
9 unlawful for any person to:

10 (1) import, sell, manufacture, transfer or
11 receive a large-capacity ammunition feeding device; or

12 (2) possess a large-capacity ammunition
13 feeding device manufactured after July 1, 2024.

14 B. Subsection A of this section does not apply to
15 the transfer of a large capacity ammunition feeding device to a
16 person residing in another state or maintaining it in another
17 state or to a licensed firearms dealer.

18 C. Subsection A of this section does not apply to:

19 (1) the importation or manufacture by or for,
20 sale or transfer to, or possession by or under the authority of
21 the United States or any department or agency thereof or a
22 state or an Indian nation, tribe or pueblo or a department, an
23 agency or a political subdivision thereof; or

24 (2) the importation or manufacture for, sale
25 or transfer to, or possession by a licensee under Title 1 of

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1 the federal Atomic Energy Act of 1954 for purposes of
2 establishing and maintaining an on-site physical security
3 protection system and security organization required by federal
4 law or the transfer to or possession by a contractor of such a
5 licensee on-site for such purposes or off-site for purposes of
6 licensee-authorized training or transportation of nuclear
7 materials.

8 D. Any licensed firearm importer, manufacturer or
9 person in possession of a large-capacity ammunition feeding
10 device:

11 (1) shall mark such large-capacity ammunition
12 feeding device imported or manufactured under Subsection C of
13 this section after January 1, 2025 in the manner prescribed by
14 the attorney general before any transfer; and

15 (2) shall not obliterate or otherwise alter
16 the serial number on such large-capacity ammunition feeding
17 device."

18 SECTION 5. A new section of Chapter 30, Article 7 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] PROHIBITING MACHINE GUNS AND MACHINE GUN
21 ATTACHMENTS.--

22 A. Beginning July 1, 2024, and except as provided
23 in Subsection B of this section, it is unlawful for any person
24 to import, sell, manufacture, transfer, receive or possess a
25 machine gun or machine gun attachment.

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1 B. Subsection A of this section does not apply to:

2 (1) the importation or manufacture by or for,
3 sale or transfer to or possession by or under the authority of
4 the United States or any department or agency thereof or a
5 state or an Indian nation, tribe or pueblo or a department, an
6 agency or a political subdivision thereof;

7 (2) the importation or manufacture for, sale
8 or transfer to, or possession by a licensee under Title 1 of
9 the federal Atomic Energy Act of 1954 for purposes of
10 establishing and maintaining an on-site physical security
11 protection system and security organization required by federal
12 law, or the transfer to or possession by a contractor of such a
13 licensee on-site for such purposes or off-site for purposes of
14 licensee-authorized training or transportation of nuclear
15 materials; and

16 (3) machine guns and machine gun attachments
17 lawfully registered with the United States bureau of alcohol,
18 tobacco, firearms and explosives pursuant to the National
19 Firearms Act and the federal Firearms Owners' Protection Act.

20 C. Whoever violates this section is guilty of a
21 fourth degree felony."

22 **SECTION 6.** A new section of Chapter 30, Article 7 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] LIST OF REGULATED WEAPONS.--

25 A. No later than July 1, 2024, the attorney

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1 general, in consultation with the department of public safety,
2 shall identify the list of gas-operated semiautomatic firearms
3 subject to the Gas-Operated Semiautomatic Firearms Exclusion
4 Act that shall be published and made available on the attorney
5 general's website. The attorney general shall update the list
6 as necessary, but not less than once per calendar year on or
7 before July 1. An owner or manufacturer of a gas-operated
8 semiautomatic firearm may appeal the determination to include a
9 firearm on the list within sixty days of the firearm being
10 listed pursuant to rules promulgated by the attorney general.
11 Rules shall be adopted and promulgated as provided in the State
12 Rules Act.

13 B. The department of public safety shall:

14 (1) require that each licensed firearms dealer
15 record purchaser acknowledgment of the list published under
16 Subsection A of this section before any sale of a firearm that
17 is not prohibited under that list;

18 (2) before removing any gas-operated
19 semiautomatic firearm from the list required under Subsection A
20 of this section, submit to the attorney general clear and
21 convincing evidence that the firearm should be removed from the
22 list; and

23 (3) advise the attorney general on carrying
24 out the authority described in Subsection A of this section.

25 C. The attorney general may request any additional

1 information from the manufacturer necessary to make the
2 determination under Subsection A of this section.

3 D. No later than December 1, 2024, the attorney
4 general, in consultation with the department of public safety,
5 shall publish on the attorney general's website the manner in
6 which a large-capacity ammunition feeding device shall be
7 marked pursuant to Subsection D of Section 4 of the Gas-
8 Operated Semiautomatic Firearms Exclusion Act and the manner in
9 which gas-operated semiautomatic firearms shall be marked
10 pursuant to Subsection E of Section 3 of that act.

11 E. No later than July 1, 2024, the attorney
12 general, in consultation with the department of public safety,
13 shall publish on the attorney general's website the manner or
14 manners in which a magazine may be permanently fixed to a
15 firearm, device or combination of parts described in Paragraphs
16 (1) through (5) of Subsection A of Section 3 of the Gas-
17 Operated Semiautomatic Firearms Exclusion Act, in compliance
18 with Subsection F of that section."

19 SECTION 7. A new section of Chapter 30, Article 7 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] CERTIFICATION OF SEMIAUTOMATIC FIREARMS.--

22 A. No later than September 1, 2024, the attorney
23 general, in consultation with the department of public safety,
24 shall develop and make available a system for certifying gas-
25 operated semiautomatic firearms.

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1 B. The certification shall include:

2 (1) an affirmation that the person possessed
3 the semiautomatic firearm prior to January 1, 2025, received a
4 timely certified firearm from an immediate family member or
5 moved into the state in possession of the firearm within sixty
6 days prior;

7 (2) as applicable, the make, model, caliber
8 and serial number of the firearm; and

9 (3) the person's name, address, telephone
10 number and date of birth.

11 C. Information contained in the certification shall
12 be confidential, is exempt from disclosure pursuant to the
13 Inspection of Public Records Act and shall not be disclosed,
14 except to law enforcement agencies acting in the performance of
15 their duties.

16 D. The certification form shall include the
17 following statement printed in bold type: "Warning: Entering
18 false information on this form is punishable as perjury
19 pursuant to Section 30-25-1 NMSA 1978.". In any
20 administrative, civil or criminal proceeding in the state, a
21 completed certification submitted to the attorney general by a
22 person pursuant to this section creates a rebuttable
23 presumption that the person is entitled to possess and
24 transport the gas-operated semiautomatic firearm."

25 SECTION 8. A new section of Chapter 30, Article 7 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] NONRESIDENTS.--

3 A. A nonresident may transport, within twenty-four
4 hours, a firearm, device or combination of parts described in
5 Paragraphs (1) through (5) of Subsection A of Section 3 of the
6 Gas-Operated Semiautomatic Firearms Exclusion Act or a large-
7 capacity ammunition feeding device manufactured after July 1,
8 2024 for a lawful purpose from a place where the nonresident
9 may lawfully possess the firearm, device or combination of
10 parts to another place where the nonresident may lawfully
11 possess the firearm, device or combination of parts if, during
12 the transportation, the firearm, device or combination of parts
13 is unloaded and is not readily accessible or directly
14 accessible from the passenger compartment of the transporting
15 vehicle. In the case of a vehicle without a compartment
16 separate from the driver's compartment, the firearm, device or
17 combination of parts shall be contained in a locked container
18 other than the glove compartment or console.

19 B. Any nonresident who moves into the state in
20 possession of a firearm, device or combination of parts
21 described in Paragraphs (1) through (5) of Subsection A of
22 Section 3 of the Gas-Operated Semiautomatic Firearms Exclusion
23 Act shall, within sixty days, complete and submit a
24 certification in accordance with the process established by the
25 attorney general pursuant to Section 7 of that act. Once a

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1 gas-operated semiautomatic firearm is certified under this
2 section, the lawful owner may use and transfer such firearms as
3 allowed under Subsections C and D of Section 3 of that act."

4 SECTION 9. A new section of Chapter 30, Article 7 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] PENALTIES.--

7 A. Unless specified otherwise in the Gas-Operated
8 Semiautomatic Firearms Exclusion Act, whoever violates a
9 provision of that act is guilty of a misdemeanor.

10 B. Whoever commits, or attempts to commit, a felony
11 offense while in possession of a gas-operated semiautomatic
12 firearm or large-capacity ammunition feeding device in
13 violation of the Gas-Operated Semiautomatic Firearms Exclusion
14 Act is guilty of a fourth degree felony."

15 SECTION 10. A new section of Chapter 30, Article 7 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] SEVERABILITY.--If any part or application
18 of the Gas-Operated Semiautomatic Firearms Exclusion Act is
19 held invalid, the remainder or its application to other
20 situations or persons shall not be affected."