

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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}

Date Prepared: 2/6/25 *Check all that apply:*
Bill Number: SB 279 Original Correction
 Amendment Substitute

Sponsor: Rep. Micaelita Debbie O'Malley **Agency Name and Code** AOC 218
Short Title: Gas-Operated Semiauto Firearms Exclusion Act **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 279 enacts the “Gas-Operated Semiautomatic Firearms Exclusion Act (GOSAFE Act), within Chapter 30, Article 7 NMSA 1978, to prohibit, beginning on July 1, 2025, the importation, sale, manufacture, transfer or receipt of gas-operated semiautomatic firearms. Under SB 279 a prohibition against possession would begin on January 1, 2026. SB 279 also prohibits large-capacity ammunition feeding devices and devices that materially increase the rate of fire of a firearm or approximate the action or rate of fire of a machine gun, and prohibits machine guns and rapid fire devices. SB 279 requires the Attorney General (AG) to list the gas-operated semiautomatic firearms subject to the provisions of the GOSAFE Act, and requires the certification of semiautomatic firearms.

SB 279 provides the following penalties:

- Fourth degree felony penalty for the importation, sale, manufacture, transfer, receipt or possession of a machine gun or rapid fire device, with exceptions (Section 5)
- Misdemeanor penalty for a violation of the GOSAFE Act where a penalty is unspecified. (Section 9)
- Fourth degree felony for commission or attempt to commit, a felony offense while in possession of a gas-operated semiautomatic firearm or large-capacity ammunition feeding device in violation of the GOSAFE Act. (Section 9)

SB 279 specifies the actions a nonresident may take within New Mexico with regard to the firearms and attachments regulated by the GOSAFE Act. (Section 8)

SB 279 contains a severability clause, providing that if any part or application of the GOSAFE Act is held invalid, the remainder or its application to other situations or persons shall not be affected. (Section 10)

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions as well as challenges to the constitutionality of the Gas-Operated Semiautomatic Firearms Exclusion Act. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) On the federal level, in the winter of 2023, Sens. Heinrich and King introduced legislation enacting the Gas-Operated Semi-Automatic Firearms Exclusion Act (GOSAFE Act), aiming to

...regulate firearms based on the lethality of their internal mechanisms rather than on what the firearm looks like, to regulate the sale, transfer and manufacture of gas-operated semi-automatic firearms by making a list of prohibited firearms;

preventing illegal modifications of legal firearms; mandating that future gas-operated designs are approved before manufacture and preventing illegal firearm self-assembly and manufacturing.

See *Heinrich introduces legislation aimed at curbing gun violence*, Nicole Maxwell, December 1, 2023 at <https://nmpoliticalreport.com/news/heinrich-introduces-legislation-aimed-at-curbing-gun-violence/> , and noting that the legislation is aimed at curbing fatalities from mass shooting incidents while maintaining Second Amendment Protections.

The National Shooting Sports Foundation (NSSF), however, rejects the GOSAFE Act, stating that it is clearly unconstitutional, as the U.S. Supreme Court held in *District of Columbia v. Heller*, 554 U.S. 570 (2008), that entire classes of firearms cannot be banned from legal sale and possession by law-abiding citizens. The NSSF also notes that the Centers for Disease Control and Prevention (CDC) found that a federal limit on magazine capacity had no appreciable effect on crime reduction during the 1994 Assault Weapons Ban. See *NSSF Rebukes Sens. King and Heinrich MSR Ban Bill*, November 30, 2023 at <https://www.nssf.org/articles/nssf-rebukes-sens-king-and-heinrich-msr-ban-bill/> .

See also, *GOSAFE ACT*, fact sheet, https://www.heinrich.senate.gov/imo/media/doc/gosafe_fact_sheet.pdf and GOSAFE Act

- 2) It is to be expected that the GOSAFE Act will be subject to challenges under both the Second Amendment of the U.S. Constitution and Article 2, Section 6 of the Constitution of New Mexico. (Right to bear arms.)

According to February 6, 2025 reporting by KOAT, New Mexico Republicans feel that the SB 279 GOSAFE Act is clearly a violation of Second Amendment Rights. See *GOSAFE Act circulating in the roundhouse to tackle gun safety*, <https://www.koat.com/article/gosafe-act-circulating-in-the-roundhouse-to-tackle-gun-safety-koat-politics-santa-fe/63693678> and *GOSAFE Act circulating in the roundhouse focuses gun safety*, https://www.youtube.com/watch?v=Ser_jyYg4-E . See also, *New Mexico: Anti-Gun Extremists Introduce Sweeping Gun Ban*, February 5, 2025, <https://www.nraila.org/articles/20250205/new-mexico-anti-gun-extremists-introduce-sweeping-gun-ban> .

In addition, and as the Office of the NM Attorney General pointed out in its analysis of 2023's HB 101 and its substitute, the court in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. ___ (2022), held that the government must demonstrate that the regulation being challenged is “consistent with this nation’s tradition of firearm regulation,” meaning, explained the New York Times, “that the constitutionality of modern gun control measures depends on whether the government can show that there were analogous laws during the 18th and 19th centuries.” See *Supreme Court’s Devotion to Gun Rights Faces a Challenging Test*, Adam Liptak, November 6, 2023 at <https://www.nytimes.com/2023/11/06/us/politics/supreme-court-guns-second-amendment.html#:~:text=%E2%80%9CThe%20government%20must%20demonstrate%20that,the%2018th%20and%2019th%20centuries> . See the FIR for 2023's HB 101 and substitute at <https://www.nmlegis.gov/Sessions/23%20Regular/firs/HB0101.PDF> .

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS