

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill is all new material for Chapter 30, Article 7 NMSA 1978.

Section 1 is entitled “Short Title” and provides that the act may be cited as the “Gas-Operated Semiautomatic Firearms Exclusion Act.”

Section 2 is entitled “Definitions” and provides nine definitions for the act: “ammunition”; “cycle the action”; “fixed magazine”; “gas-operated”; “immediate family member”; “large-capacity ammunition feed device”; “machine gun”; “rapid fire device”; and “semiautomatic firearm.”

Section 3 is entitled “Prohibiting the Importation, Sale, Manufacture, Transfer, Receipt or Possession of Gas-Operated Semiautomatic Firearms – Providing Exceptions”

- A. Beginning July 1, 2025, except as provided in Subsections C or D, it is unlawful for a person to import, sell, manufacture, transfer or receive any of the following firearms, devices, or combination of parts: (1) a firearm that is included on the list of prohibited gas-operated semiautomatic firearms identified by the attorney general; (2) modified non-prohibited firearm, that as modified, operates as a firearm included on the list identified by the attorney general; (3) a combination of parts that is designed and functions to modify a non-prohibited firearm so that the firearm, as modified, operates as a gas-operated semiautomatic firearm included on the list identified by the attorney general; (4) a combination of parts that is designed to be assembled into a firearm that operates as a firearm included on the attorney general’s list; (5) a combination of parts that functions to produce a gas-operated semiautomatic cycling action.
- B. Beginning January 1, 2026, except as provided in Subsections C or D, it is unlawful for a person to possess a firearm, device or combination of parts as described in the five subsections above.
- C. Subsections A and B do not apply to: (1) importation or manufacture or sale or transfer by or under the authority of the United States or any department or agency thereof; or an Indian nation, tribe, or pueblo or any department or political subdivision thereof; (2) importation or manufacture or sale or transfer by a licensee under Title 1 of the Atomic Energy Act of 1954 for the purpose of establishing and maintaining on-site physical security required by federal law or the transfer to or possession by contractors on or off site for such purposes or for transportation of nuclear materials; (3) to the possession of a gas-operated semiautomatic firearm that was (a) manufactured prior to July 1, 2025; (b) transferred by the manufacturer to another party; and (c) certified by the owner in accordance with Section 7 of this act that the owner owned it prior to January 1, 2026 or received it from an immediate family member who owned it prior to January 1, 2026; (4) to the transfer or possession of such a firearm that is lawfully possessed prior to January 1, 2026 in accordance with subsection 3 and (a) the transferee is an immediate family

member; and (b) the transferee certified the firearm in accordance with Section 7 of this act; (5) to the transfer of such a firearm certified in accordance with Section 7 of this act to a person residing in another state or maintaining it in another state or to a licensed firearms dealer.

- D. A gas-operated semiautomatic firearm that is lawfully certified in accordance with Section 7 of this act may only be possessed: (1) on private property owned by the person; (2) on private property that is not open to the public with the express permission of the person who owns the property; (3) on the premises of a licensed firearms dealer for the purpose of the firearm's lawful transfer or repair; (4) while engaged in the legal use of the firearm at a licensed firing range or shooting competition venue; (5) while traveling to and from the above locations, provided that the firearm is unloaded and enclosed in a case.
- E. Licensed firearms dealers shall mark all such firearms imported or manufactured under Paragraphs (1) and (2) of Subsection C after January 1, 2026, in the manner prescribed by the attorney general before a transfer under those paragraphs can be made.
- F. For purposes of this section, "gas-operated semiautomatic firearm" does not include a lengthy list of various firearms, rifles, shotguns, and handguns with limited ammunition capacity or caliber which are all specified in this section.

Section 4 is entitled "Prohibiting Large-Capacity Ammunition Feeding Devices"

- A. Except as provided in Subsection B and C of this section and Section 8 of the act, on or after July 1, 2025 it is unlawful for a person to (1) import, sell, manufacture, transfer or receive a large-capacity ammunition feeding device; or (2) possess such a device manufactured after July 1, 2025.
- B. The prohibition does not apply to the transfer of such a device to a person residing in another state or maintaining it in another state or to a licensed firearms dealer.
- C. The prohibition does not apply to the situations set out in Section 3, subsection (C)(1) and (2).
- D. A person in possession of such a device (1) shall mark it in the manner prescribed by the attorney general before transfer and (2) shall not obliterate or otherwise alter the serial number.

Section 5 is entitled "Prohibiting Machine Guns and Rapid Fire Devices"

- A. Beginning July 1, 2025, it is unlawful for any person to import, sell, manufacture, transfer, receive or possess a machine gun or rapid fire device.
- B. This prohibition does not apply to the situation set out in Section 3, subsection (C)(1) and (2) as well as such devices lawfully registered with the ATF pursuant to the National Firearms Act.
- C. Violation of this section is a fourth degree felony.

Section 6 is entitled "List of Regulated Weapons"

- A. Requires the attorney general, by July 1, 2025, in consultation with the department of public safety to identify a list of gas-operated semiautomatic firearms subject to this act that shall be published and made available on the attorney general's website.
- B. The department of public safety shall: (1) require that each licensed firearms dealer record purchaser acknowledgment of the list before any sale of a firearm that is not prohibited on the list; (2) provide clear and convincing evidence to the attorney general that a firearm should be removed from the list; (3) advise the attorney general on carrying out the authority of Subsection A.

- C. The attorney general may request additional information from the manufacturer before making a determination.
- D. No later than December 1, 2025, the attorney general, in consultation with the department of public safety shall publish on the website the way a large-capacity ammunition feeding device shall be marked pursuant to Section 4, subsection D.

Section 7 is entitled “Certification of Semiautomatic Firearms”

- A. No later than October 1, 2025, the attorney general, in consultation with the department of public safety, shall develop and make available a system for certifying gas operated semiautomatic firearms. The system shall require owners of such firearms to (1) complete a certification form; (2) submit it to a license firearm dealer or the attorney general if before January 1, 2026; (3) submit to the attorney general if after January 1, 2026.
- B. The attorney general, in consultation with the department of public safety, shall promulgate rules to govern the certification and submission process. The rules for submission of the certification form to a licensed firearm dealer shall include that (1) two copies of the form; one for the dealer and one for the owner; (2) the form shall be completed by the dealer who personally observes the serial number on the device and photo ID of the owner; (3) the owner shall notarize the owner’s copy within two days; (4) the owner shall always carry the copy while possessing the firearm; (5) dealers shall make the forms available to law enforcement for inspection.
- C. The certification shall include (1) an affirmation that the owner possessed the firearm pursuant to Sections 3 and 8 of this act prior to January 1, 2026, received a timely certified firearm from an immediate family member, or moved to the state within 60 days prior; (2) the make, model, caliber, and serial number of the firearm; (3) the person’s identifying information; (4) the identifying information of the dealer who has a copy of the certification form.
- D. Information in the certification shall be confidential and is exempt from disclosure under the Inspection of Public Records Act.
- E. The form shall include a statement in bold type that entering false information is punishable as perjury.

Section 8 is entitled “Nonresidents”

- A. A nonresident may transport such a device from a place where it is lawful to possess it to another place where it is lawful to possess it if the device is unloaded and not readily accessible during transport.
- B. A nonresident who moves to New Mexico in possession of such a device shall complete and submit the certification within 60 days.

Section 9 is entitled “Penalties”

- A. Unless otherwise specified in the act, a violation of the act is a misdemeanor.
- B. A 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 act is guilty of a fourth degree felony.

Section 10 is entitled “Severability” and provides that if any part or application of the act is held invalid, the rest of the act shall not be affected.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

This bill places significant and new responsibilities on the attorney general and department of public safety to formulate and publish a list of prohibited weapons, to promulgate rules, and to develop a system for certification in a relatively short span of time. This might require additional staff, training, and/or IT resources to implement.

It could also increase prosecutions as it creates a new crime which requires more resources for the courts, the prosecutors' offices, and the public defenders.

SIGNIFICANT ISSUES

This bill outlaws a large group of weapons and will likely face a challenge under the Second Amendment. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court struck down the District of Columbia's handgun ban because it prohibited an entire class of arms overwhelmingly chosen by American society for lawful self-defense in the home. The Court found that the Second Amendment protects an individual's right to possess firearms commonly used for lawful purposes, such as self-defense. The Court made it clear, however, that the Second Amendment right is not unlimited and does not extend to all types of weapons and that longstanding prohibitions and regulations on certain types of firearms, especially those not in common use or considered dangerous and unusual, do not violate the Second Amendment. This includes restrictions on firearms that are not typically possessed by law-abiding citizens for lawful purposes.

It is unclear what result a Second Amendment challenge might have on this class of firearms.

A similar bill, sponsored by Senator Heinrich, has been proposed to Congress – the “GOSAFE Act.”

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related bills are SB 244 – “Unlawful Transfer of a Firearm to a Minor”; and SB 255 – “Sale of Firearms without Background Check”

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a