

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

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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}*

*Check all that apply:*

<b>Original</b>	<input type="checkbox"/>	<b>Amendment</b>	<input type="checkbox"/>	<b>Date</b>	<u>3/10/25</u>
<b>Correction</b>	<input type="checkbox"/>	<b>Substitute</b>	<input checked="" type="checkbox"/>	<b>Bill No:</b>	<u>SB 279</u>

<b>Sponsor:</b>	<u>Sens. O'Malley &amp; Berghmans, Reps. Romero, Little, and Roybal Caballero</u>	<b>Agency Name and Code</b>	<u>GOV-356</u>
<b>Short Title:</b>	<u>GAS-OPERATED SEMIAUTO FIREARMS EXCLUSION</u>	<b>Number:</b>	<u></u>
		<b>Person Writing</b>	<u>Kyle Duffy</u>
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
N/A	N/A	N/A	N/A
N/A	N/A	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	NFI	NFI
NFI	NFI	NFI	NFI	NFI

(Parenthesis ( ) Indicate Expenditure Decreases)

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

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

**SENATE JUDICIARY SUBSTITUTE**

The Senate Judiciary Substitute for Senate Bill 279 (SB 279) makes the following changes:

- Specifies in the definitions section that a rapid-fire device does not include a part or combination of parts designed and intended to convert a semiautomatic into a fully automatic firearm—which ensures that SB279 does not conflict with House Bill 8’s prohibition on weapon conversion devices.
- Adds that a single- or double-action semiautomatic handgun under eight inches in overall length that uses blowback to cycle the action of the handgun is not considered a gas-operated semiautomatic firearm—which exempts many popular blowback operated pistols while still regulating abnormally dangerous models (which are over 8 inches in overall length) like TEC-9’s, MAC-10’s and Uzi’s.
- Fixes minor, technical issues.

Otherwise, the substitute is identical to the original, as described below.

**BILL SUMMARY**

SB 279—inspired by similar legislation at the federal level<sup>1</sup>—enacts the Gas-Operated Semiautomatic Firearms Exclusion Act (the “GOSAFE Act”). The Act generally regulates four categories of items: (1) gas-operated semiautomatic firearms, (2) large-capacity ammunition feeding devices, (3) machine guns, and (4) rapid fire devices. The purpose of SB 279 is to balance the rights of responsible gun owners with protecting the public from the most dangerous weapons and accessories on the market that are not commonly used for self-defense.

**A. Gas-Operated Semi-Automatic Firearms**

SB 279 regulates “gas-operated semiautomatic firearms,” which are semiautomatic rifles, shotguns, and handguns that harness or trap a portion of the high-pressure gas from a fired round to quickly cycle the action and chamber a new round. *See* § 2(A)-(D), (I); § 3(F). However, SB

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<sup>1</sup> *See GOSAFE ACT*, Off. of Senator Martin Heinrich, <https://www.heinrich.senate.gov/gosafe> (last visited Feb. 26, 2026).

279 exempts firearms: (1) with “fixed magazines”<sup>2</sup> with a capacity of ten rounds of ammunition or less; (2) designed to accept, and capable of operating only with, .22 or less caliber ammunition; or (3) certain other specified firearms like breech loading, firearms with limited capacity. *See id.* It further exempts recoil-based handguns, which include the majority of all modern handguns. *See* § 3(F)(5). To assist the public with understanding which firearms are regulated by SB 279, the Attorney General will publish, and regularly update, a list of those firearms that qualify as gas-operated semiautomatic firearms. *See* § 6.

SB 279 generally prohibits the import, sale, manufacture, transfer, or receipt of gas-operated semiautomatic firearms beginning July 1, 2025, and the possession of those firearms beginning January 1, 2026.<sup>3</sup> However, current owners of gas-operated semiautomatic firearms can continue to possess and use their firearms if they file a confidential certification form with the Attorney General or an in-state federally licensed firearms dealer.<sup>4</sup> *See* § 3(C); § 7. Additionally, those who move into New Mexico after the effective date of SB 279 will be able to grandfather their gas-operated semiautomatic firearms by filing a certification form with the Attorney General. *See* § 8.

Those that comply with this grandfathering process will be able to use and possess their firearms: (1) on private property owned or immediately controlled by them; (2) on private property that is not open to the public with the permission of the person who owns or controls the property; (3) while on the premises of a licensed firearms dealer or gunsmith; (4) at a licensed firing range or sport shooting competition venue; or (5) while traveling to or from the above locations so long as the firearm is unloaded and enclosed in a case. *See* § 3(D). Additionally, owners of grandfathered firearms can sell or transfer their firearms to federally licensed firearms dealers, out-of-state residents, or immediate family members. *See* § 3(C)(4)-(5).

## **B. Large-Capacity Ammunition Feeding Devices**

Beginning July 1, 2025, SB 279 generally prohibits the import, sale, manufacture, transfer, receipt, or possession of “large-capacity ammunition feeding devices,” which are magazines that have a capacity of, or that can be readily converted to accept, more than ten rounds of ammunition (except those that can only use .22 or less caliber ammunition). *See* § 2(F); § 4(A). However, current owners of large-capacity ammunition feeding devices that were manufactured prior to July 1, 2025, can continue to possess and use those devices. *See* § 4(A). Additionally, they can transfer or sell those devices to out-of-state residents and federal firearms dealers. *See* §

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<sup>2</sup> Unlike the federal GOSAFE Act, SB 279 provides a more expansive definition of “fixed magazine” similar to California’s law, which allows current owners to easily convert their firearms to be exempt from SB 279. *See* § 2(C); *see e.g.*, *California Compliant AR Mod Kit*, Juggernaut Tactical, <https://jtactical.com/products/ca-compliant-ar-mod-kit-featureless-ar-alternative> (last visited Feb 25, 2025). Additionally, “California compliant” firearms that are already on the shelf can continue to be sold, purchased, and used.

<sup>3</sup> Certain classes of individuals and entities, such as law enforcement officials and government entities, are exempt from SB 279’s regulations. *See* § 3(C)(1)-(2); § 4(C); § 5(B).

<sup>4</sup> In New Mexico, our state law already requires all firearm sales to be run through federally licensed dealers, *see* NMSA 1978, § 30-7-7.1 (2019), who process background checks and retain critical records under federal regulations, *see* 27 CFR § 478.129.

4(B).

### **C. Machine Guns and Rapid Fire Devices**

Beginning July 1, 2025, SB 279 prohibits the import, sale, manufacture, transfer, receipt, or possession of machine guns that are not registered with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives pursuant to the National Firearms Act, and “rapid fire devices,” which are devices that materially increase the rate of fire of semiautomatic firearms or enable them to approximate the rate of fire of a machine gun, such as “bump stocks.” *See* § 2(G)-(H); § 5.

### **FISCAL IMPLICATIONS**

Indeterminate.

### **SIGNIFICANT ISSUES**

#### **A. Gun Violence**

Gas-operated semiautomatic firearms 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 a gas-operated semiautomatic firearms inflicts greater damage to the human body than a round from a typical handgun. Moreover, semiautomatic weapons can load and fire subsequent rounds much faster than manually operated firearms. When combined with high-capacity magazines, they allow a shooter to fire more rounds over a short period without pausing to reload.

Gas-operated semiautomatic firearms 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 a gas-operated semiautomatic firearm 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.<sup>5</sup> New Mexico has also been victim to these mass shootings. For example, in May of 2023, an 18-year-old man used a gas-operated semiautomatic firearm to shoot more than 100 rounds in Farmington—killing three people and injuring six others.<sup>6</sup>

Research shows a prohibition on the gas-operated semiautomatic firearms can prevent mass shooting fatalities and active shooter events. For example, a recent study found that the federal prohibition on gas-operated semiautomatic firearms 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

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<sup>5</sup> *See Prohibit Assault Weapons*, Everytown for Gun Safety, <https://www.everytown.org/solutions/assault-weapons/> (last visited Feb. 26, 2025).

<sup>6</sup> *See* David Li, *At least 3 people killed and 2 officers wounded in New Mexico shooting, police say*, NBC News (May 15, 2023), <https://www.nbcnews.com/news/us-news/farmington-new-mexico-shooting-least-3-people-killed-2-officers-wounde-rcna84540>.

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.<sup>7</sup>

## **B. SB 279 vs. “Features-Based” Laws**

States that currently regulate “assault weapons” typically define these weapons based on the presence of a particular external feature (e.g., a barrel shroud or thumbhole grip) combined with the ability to accept a detachable magazine. *See, e.g.*, 720 ILCS 5/24-1.9(a)(1); Md. Code, Crim. Law §§ 4-303, 4-301. New Mexico legislators have previously tried passing similar “features-based” legislation. *See* H.B. 101, 56th Leg., 1st Sess. (N.M. 2023). However, critics claimed that these laws regulate on the basis of largely “cosmetic” external features.

With these criticisms in mind, SB 279 defines the regulated weapons based on the core characteristics that make them especially dangerous (i.e., an operating system that uses high pressured gas to quickly cycle rounds combined with an ability to accept a detachable magazine). These systems are more dangerous because they are specifically designed to handle rifle ammunition, which is generally much more powerful than handgun ammunition. As one judge recently observed:

A common caliber handgun cartridge (9 mm or .38) travels at a muzzle velocity of roughly 1,600 feet per second. When it hits tissue, it strikes directly, producing “a small temporary cavity” in tissue that “plays little or no role in the extent of wounding.” By contrast, a 5.66 mm or .223 caliber cartridge—the kind typically used in assault weapons—travels at double the speed. And unlike a handgun cartridge, it turns sideways when it hits tissue, creating a cavity over ten times larger than the cartridge itself and resulting in “catastrophic” wounding. Doctors who have treated people shot by assault rifles have witnessed “multiple organs shattered, bones exploded, soft tissue absolutely destroyed, and exit wounds a foot wide.”

*Sportsmen’s Ass’n, Inc. v. Delaware Dep’t of Safety & Homeland Sec.*, 108 F.4th 194, 215 (3d Cir. 2024) (Roth, J., concurring) (footnotes omitted).

While SB 279 defines the regulated firearms differently from other states’ “features-based” laws, the reality is that it regulates nearly the exact same firearms. The only difference is that SB 279 also prohibits featureless gas-operated semiautomatic firearms that can take a detachable magazine. Nonetheless, the features-based laws in other states are valuable public safety laws, and New Mexico would be well served by either SB 279 or a features-based approach this legislative session.

## **C. Constitutionality of SB 279**

### **i. Second Amendment**

In *D.C. v. Heller*, the Supreme Court held for the first time in our country’s history that the

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<sup>7</sup> *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/>.

Second Amendment right conferred upon an individual a right to keep and bear arms. 554 U.S. 570 (2008). However, the Court made clear that the right “was not unlimited.” *Id.* at 595. As the Court recognized, “the Second Amendment right . . . extends only to certain types of weapons”; it is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Id.* at 623, 626. Indeed, the Court found it would be “startling” to read the Second Amendment such that “the National Firearms Act’s restrictions on machineguns . . . might be unconstitutional.” *Id.* at 624. Thus, the Court acknowledged that it was not in serious dispute that “weapons that are most useful in military service—M-16 rifles and the like—may be banned.” *Id.* at 627. Relatedly, Court explained, the “Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes,” or “dangerous and unusual weapons.” *Id.* at 625, 27.

Consistent with *Heller*, several states and the District of Columbia enacted laws prohibiting “assault weapons” and high-capacity magazines. These laws have consistently been upheld as constitutional. *See, e.g., Worman v. Healey*, 922 F.3d 26 (1st Cir. 2019) (upholding semiautomatic “assault weapon” prohibition); *State Rifle and Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015) (same); *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011) (same); *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc) (same); *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015) (same); *Duncan v. Bonta*, 19 F.4th 1087 (U.S. 9th Cir. 2021) (upholding 10+ cartridge magazine prohibition); *Pistol Ass’n of N.J. Rifle & Pistol Clubs v. AG N.J.*, 910 F.3d 106 (3d Cir. 2018) (same); *Worman*, 922 F.3d 26 (same); *N.Y. State Rifle & Pistol Ass’n*, 804 F.3d 242 (same).

However, the U.S. Supreme Court recently revised the analysis courts should apply in adjudicating Second Amendment challenges in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). There, the Court struck down a New York licensing provision that allowed officials to deny firearm licenses on a subjective and discretionary basis. *Id.* at 2156. In so holding, the Court announced a new test in which a challenger must first establish that the Second Amendment’s plain text covers their proposed course of conduct. If so, the government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. *Id.* at 2129-30.

Importantly, Chief Justice Roberts and Justice Kavanaugh—two justices necessary to form the majority opinion in *Bruen*—made clear that “the Court’s decision addresses only the unusual discretionary licensing regimes” and that states may continue “the historical tradition of prohibiting the carrying of dangerous and unusual weapons.” *Id.* at 2162 (Kavanaugh, J., concurring). Justice Alito also clarified that the “holding decides nothing about who may lawfully possess a firearm or the requirements that must be met to buy a gun. *Nor does it decide anything about the kinds of weapons that people may possess.*” *Id.* at 2157 (Alito, J., concurring) (emphasis added).

The Supreme Court has since made it clear that *Bruen* is not the “regulatory straightjacket” courts initially treated it as, and that courts should not read it to create a “law trapped in amber.” *United States v. Rahimi*, 602 U.S. 680, 691 (2024). Thus, courts need only determine that a modern firearm regulation “is consistent with the *principles* that underpin our regulatory tradition.” *Id.* at 692 (emphasis added). And, as Justice Barrett clarified, “a challenged regulation need not be an updated model of a historical counterpart.” *Id.* at 740 (Barrett, J., concurring).

While courts are still figuring out how to apply *Bruen*'s framework (as clarified by *Rahimi*) to laws like SB 279, there is a strong likelihood it will be found constitutional. For example, federal district court judges held that those challenging similar “assault weapon” laws in California, Connecticut, Delaware, Illinois, Massachusetts, and Washington were unlikely to succeed. *See Rupp v. Bonta*, 723 F. Supp. 3d 837 (C.D. Cal. 2024);<sup>8</sup> *Nat'l Ass'n for Gun Rights v. Lamont*, 2023 WL 4975979 (D. Conn. Aug. 3, 2023); *Delaware State Sportsmen's Ass'n, Inc. v. Delaware Dep't of Safety & Homeland Sec.*, 664 F. Supp. 3d 584 (D. Del. 2023); *Bevis v. City of Naperville*, 657 F. Supp. 3d 1052 (N.D. Ill. 2023); *Herrera v. Raoul*, 670 F. Supp. 3d 665 (N.D. Ill. 2023); *Capen v. Campbell*, 708 F. Supp. 3d 65 (D. Mass. 2023); *Hartford v. Ferguson*, 676 F. Supp. 3d 897 (W.D. Wash. 2023).

Notably, the Seventh Circuit Court of Appeals upheld the district court's decision and concluded that there was a “strong likelihood” that the law is constitutional. *See Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023). Likewise, the Third Circuit Court of Appeals affirmed the district court's decision preliminarily upholding the Delaware law. *See Delaware State Sportsmen's Ass'n, Inc.*, 108 F.4th 194. In both cases, the Supreme Court declined to reverse the lower courts' decisions. *See Harrel v. Raoul*, 144 S. Ct. 2491 (2024); *Nat'l Ass'n for Gun Rights v. City of Naperville, Illinois*, 144 S. Ct. 538 (2023); *Gray v. Jennings*, 2025 WL 76443 (U.S. Jan. 13, 2025).

Most recently, the Fourth Circuit, sitting en banc, upheld Maryland's “assault weapon” law. *See Bianchi v. Brown*, 111 F.4th 438 (4th Cir. 2024). Writing for the majority, Judge Harvie Wilkinson (a Ronald Reagan appointee) held that the regulated firearms were not covered by the Second Amendment's text because “they are weapons ‘most useful in military service’ with firepower far exceeding the needs of the typical self-defense situation,” *id.* at 453 (quoting *Heller*, 554 U.S. at 627), and even if they were protected, Maryland's regulations were consistent with a “tradition of regulating excessively dangerous weapons.” *Id.* at 446.

Although each of the foregoing cases analyzed “features-based” laws, this is a distinction without a difference. Their analysis does not focus (or often even mention) the weapons' features; rather, the core of their analyses focuses on the weapons' firepower, the damage they cause to human tissue, and their shared lineage with the M16. *See, e.g., Bianchi*, 111 F.4th at 455; *Bevis*, 85 F.4th at 1196. Thus, there is no reason to believe that these courts would apply a different analysis to SB 279—which targets virtually the same firearms for this very reason.

Courts have also consistently rejected challenges to laws imposing limits on high-capacity magazines. For example, the Courts of Appeals for the First, Seventh, Ninth and DC Circuits have preliminarily upheld Rhode Island, Maryland, Illinois, California, and Washington DC's laws prohibiting high-capacity magazines, each of which limited magazines to ten rounds or less. *See Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38 (1st Cir. 2024); *Bevis*, 85 F.4th 1175; *Duncan v. Bonta*, 83 F.4th 803 (9th Cir. 2023); *Hanson v. D.C.*, 120 F.4th 223 (D.C. Cir. 2024). In so holding, these courts recognized that individuals almost never shoot more than ten rounds in self-defense. *See e.g., Ocean State Tactical*, 95 F.4th at 45.

Likewise, the Supreme Court has already clearly indicated that machine guns and rapid-fire

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<sup>8</sup> Although another district court came to the opposite conclusion regarding California's law, the Ninth Circuit Court of Appeal stayed that court's preliminary injunction—indicating that it believes the district court erred. *See Miller v. Bonta*, 2024 WL 1929016 (9th Cir. Jan. 26, 2024).

devices can be prohibited. *See Heller*, 554 U.S. at 624 (finding it would be “startling” to read the Second Amendment such that “the National Firearms Act’s restrictions on machineguns . . . might be unconstitutional”); *Garland v. Cargill*, 602 U.S. 406, 429 (2024) (Alito J., concurring) (noting that “a semiautomatic rifle with a bump stock can have the same lethal effect as a machinegun” and suggesting that Congress ban such devices).

## **ii. Article II, Section 6**

The New Mexico constitution contains an analogue to the Second Amendment, which provides, in relevant part: “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, but nothing herein shall be held to permit the carrying of concealed weapons.” N.M. Const. Art. II, § 6. While this provision may appear broader than the Second Amendment, the New Mexico Court of Appeals has observed, “With regard to the standard of scrutiny applied by our courts to challenges under the right to keep and bear arms, New Mexico has not offered greater protections than federal courts under the federal Constitution.” *State v. Murillo*, 2015-NMCA-046, ¶ 11, 347 P.3d 284. No New Mexico appellate court has addressed the scope of Article II, Section 6’s protections following the United States Supreme Court’s *Bruen* decision, and it is unclear if New Mexico courts would follow *Bruen*’s approach. But even if they do, New Mexico courts would likely reject a challenge to SB 279 for the reasons discussed above.

## **iii. Takings Clause**

The Fifth Amendment provides, in relevant part that “private property [shall not] be taken for public use, without just compensation.” Similarly, Article II, Section 20 of the New Mexico Constitution states that “[p]rivate property shall not be taken or damaged for public use without just compensation.” Given that SB 279 is a proper exercise of the State’s police power and contains a “grandfather clause” and provides time for owners of regulated items to modify or sell their items, it does not constitute a taking requiring compensation under either the federal or state constitutions. *See State v. Wilson*, 2021-NMSC-022, 489 P.3d 925; *see also Ocean State Tactical*, 95 F.4th at 53 (concluding that similar law regulating high-capacity magazines did not constitute a taking that would require compensation); *Oregon Firearms Federation, Inc. v. Brown*, 644 F.Supp.3d 782, 809 (2022) (same).

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

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

Similar to House Bill 137 from the 2024 legislative session.

## **TECHNICAL ISSUES**

N/A

## **OTHER SUBSTANTIVE ISSUES**

N/A

## **ALTERNATIVES**

New Mexico could enact a “features-based” law similar to those in other jurisdictions and House Bill 101 from the 2023 legislative session.

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

These highly dangerous weapons and accessories will continue to be legal and jeopardize the safety of New Mexicans.

## **AMENDMENTS**

N/A