

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 101

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

DISCUSSION DRAFT

AN ACT

RELATING TO FIREARMS; ENACTING THE ASSAULT WEAPONS REGULATION
ACT; PROHIBITING ASSAULT WEAPONS, ASSAULT WEAPON ATTACHMENTS,
.50 CALIBER RIFLES AND .50 CALIBER CARTRIDGES; REQUIRING
ENDORSEMENT AFFIDAVITS; PROVIDING EXCEPTIONS; REQUIRING PUBLIC
OUTREACH; PROVIDING PENALTIES.

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

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

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Assault Weapons Regulation Act"."

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

"[NEW MATERIAL] DEFINITIONS.--As used in the Assault
Weapons Regulation Act:

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underscored material = new
[bracketed material] = delete

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1 A. ".50 caliber cartridge" means a cartridge in .50
2 BMG caliber, either by designation or actual measurement, that
3 is capable of being fired from a centerfire rifle. ".50
4 caliber cartridge" does not include any memorabilia or display
5 item that is filled with a permanent inert substance or that is
6 otherwise permanently altered in a manner that prevents ready
7 modification for use as live ammunition or shotgun ammunition
8 with a caliber measurement that is equal to or greater than .50
9 caliber;

10 B. ".50 caliber rifle" means a centerfire rifle
11 capable of firing a .50 caliber cartridge. ".50 caliber rifle"
12 does not include an antique firearm, shotgun that has a rifle
13 barrel or muzzle-loader that uses black powder for hunting or
14 historical reenactments;

15 C. "antique firearm" has the meaning ascribed to it
16 in 18 U.S.C. 921(a)(16);

17 D. "assault weapon" means any of the following
18 firearms:

19 (1) a semiautomatic rifle that has the
20 capacity to accept a detachable magazine or that may be readily
21 modified to accept a detachable magazine, if the firearm has
22 one or more of the following:

23 (a) a pistol grip or thumbhole stock;

24 (b) a feature capable of functioning as
25 a protruding grip that can be held by the non-trigger hand;

.224568.2

1 (c) a folding, telescoping, thumbhole or
2 detachable stock or a stock that is otherwise foldable or
3 adjustable in a manner that operates to reduce the length, size
4 or any other dimension or otherwise enhances the concealability
5 of the weapon;

6 (d) a flash suppressor;

7 (e) a grenade launcher; or

8 (f) a shroud attached to the barrel or
9 that partially or completely encircles the barrel, allowing the
10 bearer to hold the firearm with the non-trigger hand without
11 being burned, but excluding a slide that encloses the barrel;

12 (2) a semiautomatic rifle that has a fixed
13 magazine with the capacity to accept more than ten rounds,
14 except for an attached tubular device designed to accept, and
15 capable of operating only with, .22 caliber rimfire ammunition;

16 (3) a semiautomatic pistol that has the
17 capacity to accept a detachable magazine or that may be readily
18 modified to accept a detachable magazine, if the firearm has
19 one or more of the following:

20 (a) a threaded barrel;

21 (b) a second pistol grip or another
22 feature capable of functioning as a protruding grip that can be
23 held by the non-trigger hand;

24 (c) a shroud attached to the barrel or
25 that partially or completely encircles the barrel, allowing the

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1 bearer to hold the firearm with the non-trigger hand without
2 being burned, but excluding a slide that encloses the barrel;

3 (d) a flash suppressor;

4 (e) the capacity to accept a detachable
5 magazine at some location outside of the pistol grip; or

6 (f) a buffer tube, arm brace or other
7 part that protrudes horizontally behind the pistol grip and is
8 designed or redesigned to allow or facilitate a firearm to be
9 fired from the shoulder;

10 (4) a semiautomatic pistol that has a fixed
11 magazine with the capacity to accept more than fifteen rounds;

12 (5) a shotgun with a revolving cylinder;

13 (6) a semiautomatic shotgun that has one or
14 more of the following:

15 (a) a pistol grip or thumbhole stock;

16 (b) a feature capable of functioning as
17 a protruding grip that can be held by the non-trigger hand;

18 (c) a folding or thumbhole stock;

19 (d) a grenade launcher;

20 (e) a fixed magazine with the capacity
21 of more than five rounds; or

22 (f) the capacity to accept a detachable
23 magazine;

24 (7) a semiautomatic firearm that has the
25 capacity to accept a belt ammunition feeding device;

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1 (8) a firearm that has been modified to be
2 operable as an assault weapon as defined in this subsection; or

3 (9) a part or combination of parts designed or
4 intended to convert a firearm into an assault weapon, including
5 a combination of parts from which an assault weapon may be
6 readily assembled if those parts are in the possession or under
7 the control of the same person;

8 E. "assault weapon" does not include:

9 (1) a firearm that is an unserviceable firearm
10 or has been made permanently inoperable;

11 (2) an antique firearm or a replica of an
12 antique firearm; or

13 (3) a firearm that is manually operated by
14 bolt, pump, lever or slide action, unless the firearm is a
15 shotgun with a revolving cylinder;

16 F. "assault weapon attachment" means a device
17 capable of being attached to a firearm that is specifically
18 designed for making or converting a firearm into an assault
19 weapon;

20 G. "detachable magazine" means an ammunition
21 feeding device that may be removed from a firearm without
22 disassembly of the firearm action, including an ammunition
23 feeding device that may be readily removed from a firearm with
24 the use of a bullet, cartridge, accessory, other tool or other
25 object that functions as a tool, including a bullet or

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1 cartridge;

2 H. "firearm" means a weapon that will or is
3 designed to or may readily be converted to expel a projectile
4 by the action of an explosion; and

5 I. "fixed magazine" means an ammunition feeding
6 device that is permanently attached to a firearm, contained in
7 and not removable from a firearm or that is otherwise not a
8 detachable magazine, but does not include an attached tubular
9 device designed to accept, and capable of operating only with,
10 .22 caliber rimfire ammunition."

11 SECTION 3. A new section of Chapter 30, Article 7 NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] PROHIBITING THE MANUFACTURE, POSSESSION,
14 DELIVERY, SALE, IMPORTATION AND PURCHASE OF ASSAULT WEAPONS,
15 ASSAULT WEAPON ATTACHMENTS, .50 CALIBER RIFLES AND .50 CALIBER
16 CARTRIDGES.--

17 A. Except as provided in Sections 4 and 5 of the
18 Assault Weapons Regulation Act, it is unlawful for any person
19 to knowingly manufacture, deliver, sell, import, purchase or
20 cause to be manufactured, delivered, sold, imported or
21 purchased by another an assault weapon, assault weapon
22 attachment, .50 caliber rifle or .50 caliber cartridge.

23 B. Except as provided in Sections 4 and 5 of the
24 Assault Weapons Regulation Act, beginning on March 1, 2024, it
25 is unlawful for any person to knowingly possess an assault

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1 weapon, assault weapon attachment, .50 caliber rifle or .50
2 caliber cartridge.

3 C. Whoever violates the provisions of this section
4 is guilty of a fourth degree felony."

5 SECTION 4. A new section of Chapter 30, Article 7 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] ENDORSEMENT AFFIDAVIT--RULEMAKING--
8 TRANSFERS--NEW RESIDENTS--CONFIDENTIALITY.--

9 A. Section 3 of the Assault Weapons Regulation Act
10 does not apply to a person's possession of an assault weapon,
11 assault weapon attachment, .50 caliber rifle or .50 caliber
12 cartridge device if the person lawfully possessed that assault
13 weapon, assault weapon attachment, .50 caliber rifle or .50
14 caliber cartridge prohibited by that section if the person has
15 provided an endorsement affidavit under oath or affirmation,
16 prior to March 1, 2024, and in the form and manner prescribed
17 by the department of public safety:

18 (1) an affirmation that the affiant:

19 (a) possessed an assault weapon, assault
20 weapon attachment, .50 caliber rifle or .50 caliber cartridge
21 before the effective date of the Assault Weapons Regulation
22 Act; or

23 (b) inherited the assault weapon,
24 assault weapon attachment, .50 caliber rifle or .50 caliber
25 cartridge from a person with an endorsement pursuant to this

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1 section or from a person authorized pursuant to Paragraphs (1)
2 through (5) of Subsection A of Section 5 of the Assault Weapons
3 Regulation Act to possess the assault weapon, assault weapon
4 attachment, .50 caliber rifle or .50 caliber cartridge; and

5 (2) the make, model, caliber and serial number
6 of the .50 caliber rifle or assault weapon or weapons.

7 B. No later than December 1, 2023, and every
8 December 1 thereafter, the department of public safety shall,
9 by rule, identify the list of commonly available assault
10 weapons subject to an endorsement affidavit pursuant to this
11 section, which shall be published and made available on the
12 department's website.

13 C. The affidavit form shall include the following
14 statement printed in bold type: "Warning: Entering false
15 information on this form is punishable as perjury pursuant to
16 Section 30-25-1 NMSA 1978.". In any administrative, civil or
17 criminal proceeding in the state, a completed endorsement
18 affidavit submitted to the department of public safety by a
19 person pursuant to this section creates a rebuttable
20 presumption that the person is entitled to possess and
21 transport the assault weapon, assault weapon attachment, .50
22 caliber rifle or .50 caliber cartridge.

23 D. Beginning on March 1, 2024, a person authorized
24 pursuant to this section to possess an assault weapon, assault
25 weapon attachment, .50 caliber rifle or .50 caliber cartridge

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1 shall possess the items only:

2 (1) on private property owned or immediately
3 controlled by the person;

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

7 (3) while on the premises of a licensed
8 firearms dealer or gunsmith for the purpose of lawful repair;

9 (4) while engaged in the legal use of the
10 assault weapon, assault weapon attachment, .50 caliber rifle or
11 .50 caliber cartridge at a properly licensed firing range or
12 sport shooting competition venue; or

13 (5) while traveling to or from a location
14 listed in Paragraphs (1) through (4) of this subsection;
15 provided that the assault weapon, assault weapon attachment or
16 .50 caliber rifle is unloaded and the assault weapon, assault
17 weapon attachment, .50 caliber rifle or .50 caliber cartridge
18 is enclosed in a case, firearm carrying box, shipping box or
19 other container.

20 E. Beginning on March 1, 2024, a person with the
21 endorsement for an assault weapon, assault weapon attachment,
22 .50 caliber rifle or .50 caliber cartridge or a person
23 authorized pursuant to Paragraphs (1) through (5) of Subsection
24 A of Section 5 of the Assault Weapons Regulation Act to possess
25 an assault weapon, assault weapon attachment, .50 caliber rifle

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underscored material = new
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1 or .50 caliber cartridge may transfer the assault weapon,
2 assault weapon attachment, .50 caliber rifle or .50 caliber
3 cartridge only to an heir, an individual residing in another
4 state maintaining it in another state or a dealer licensed as a
5 federal firearms dealer pursuant to Section 923 of the federal
6 Gun Control Act of 1968. Within ten days after transfer of the
7 weapon except to an heir, the person shall notify the
8 department of public safety of the name and address of the
9 transferee. The person to whom the weapon or ammunition is
10 transferred shall, within sixty days of the transfer, complete
11 an endorsement affidavit pursuant to this section if the person
12 is required to file an affidavit. A person to whom the weapon
13 is transferred may transfer it only as provided in this
14 subsection.

15 F. Except as provided in Section 5 of the Assault
16 Weapons Regulation Act and beginning on March 1, 2024, any
17 nonresident who moves into the state in possession of an
18 assault weapon, assault weapon attachment, .50 caliber rifle or
19 .50 caliber cartridge shall, within sixty days, complete and
20 submit an endorsement application pursuant to this section.

21 G. Information contained in the endorsement
22 affidavit shall be confidential, is exempt from disclosure
23 pursuant to the Inspection of Public Records Act and shall not
24 be disclosed, except to law enforcement agencies acting in the
25 performance of their duties.

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1 H. Any person not subject to Section 3 of the
2 Assault Weapons Regulation Act may submit an endorsement
3 affidavit if the person chooses.

4 I. A person required to submit an endorsement
5 affidavit who fails to submit the endorsement affidavit prior
6 to the time required by the Assault Weapons Regulation Act is
7 guilty of a fourth degree felony."

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

10 "[NEW MATERIAL] EXCEPTIONS--LAW ENFORCEMENT--OTHERS.--

11 A. The provisions of Section 3 of the Assault
12 Weapons Regulation Act regarding the purchase or possession of
13 assault weapons, assault weapon attachments, .50 caliber rifles
14 and .50 cartridges, as well as the provisions of that section
15 that prohibit causing those items to be purchased or possessed,
16 do not apply to:

17 (1) peace officers, as defined in Section
18 31-1-2 NMSA 1978;

19 (2) qualified law enforcement officers and
20 qualified retired law enforcement officers as defined in the
21 federal Law Enforcement Officers Safety Act of 2004;

22 (3) acquisition and possession by a federal,
23 state or local law enforcement agency for the purpose of
24 equipping the agency's peace officers, qualified law
25 enforcement officers or qualified retired law enforcement

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1 officers;

2 (4) wardens, superintendents and keepers of
3 prisons, penitentiaries, jails and other institutions for the
4 detention of persons accused or convicted of an offense;

5 (5) members of the armed services or reserve
6 forces of the United States or the New Mexico national guard,
7 while performing their official duties or while traveling to or
8 from their places of duty;

9 (6) a company that employs armed security
10 officers in this state at a nuclear energy, storage, weapons or
11 development site or facility regulated by the nuclear
12 regulatory commission and a person employed as an armed
13 security force member at a nuclear energy, storage, weapons or
14 development site or facility regulated by the nuclear
15 regulatory commission who has completed the background
16 screening and training mandated by the rules and regulations of
17 the nuclear regulatory commission and while performing official
18 duties; and

19 (7) a private security contractor agency
20 licensed pursuant to the Private Investigations Act that
21 employs private security contractors and a private security
22 contractor who is licensed and allowed to carry a firearm
23 pursuant to that act while performing official duties.

24 B. The provisions of Section 3 of the Assault
25 Weapons Regulation Act do not apply to the manufacture,

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1 delivery, sale, import, purchase or possession of an assault
2 weapon, assault weapon attachment, .50 caliber rifle or .50
3 caliber cartridge or causing the manufacture, delivery, sale,
4 importation, purchase or possession of those items:

5 (1) for sale or transfer to persons authorized
6 pursuant to this section to possess those items; or

7 (2) for sale or transfer to the United States
8 or any department or agency thereof.

9 C. The provisions of Section 3 of the Assault
10 Weapons Regulation Act do not apply to or affect any of the
11 following:

12 (1) possession of a firearm if that firearm is
13 sanctioned by the international olympic committee and by USA
14 shooting, the national governing body for international
15 shooting competition in the United States, but only when the
16 firearm is in the actual possession of an olympic target
17 shooting competitor or target shooting coach for the purpose of
18 storage, transporting to and from olympic target shooting
19 practice or events if the firearm is broken down in a
20 nonfunctioning state, is not immediately accessible or is
21 unloaded and enclosed in a firearm case, carrying box, shipping
22 box or other similar portable container designed for the safe
23 transportation of firearms; and when the olympic target
24 shooting competitor or target shooting coach is engaging in
25 those practices or events;

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1 (2) a nonresident who transports, within
2 twenty-four hours, an assault weapon, assault weapon
3 attachment, .50 caliber rifle or .50 caliber cartridge for a
4 lawful purpose from a place where the nonresident may lawfully
5 possess and carry those items to another place where the
6 nonresident may lawfully possess and carry those items if,
7 during the transportation, the assault weapon, assault weapon
8 attachment or .50 caliber rifle is unloaded, and neither the
9 assault weapon, assault weapon attachment or .50 caliber rifle
10 nor any ammunition being transported is readily accessible or
11 is directly accessible from the passenger compartment of the
12 transporting vehicle. In the case of a vehicle without a
13 compartment separate from the driver's compartment, the assault
14 weapon, .50 caliber rifle, assault weapon attachment or
15 ammunition shall be contained in a locked container other than
16 the glove compartment or console; and

17 (3) the manufacture, transportation,
18 possession, sale or rental of blank-firing assault weapons and
19 .50 caliber rifles, or the weapons' respective attachments, to
20 persons authorized or permitted, or both authorized and
21 permitted, to acquire and possess these assault weapons or
22 attachments for the purpose of rental for use solely as props
23 for a motion picture, television or video production or
24 entertainment event."

25 **SECTION 6.** A new section of Chapter 30, Article 7 NMSA

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underscored material = new
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1 1978 is enacted to read:

2 "[NEW MATERIAL] PENDING SALES AND TRANSFERS.--A sale or
3 transfer requiring a federal instant background check pursuant
4 to Section 30-7-7.1 NMSA 1978 is allowed to be completed after
5 the effective date of the Assault Weapons Regulation Act if the
6 background check is initiated on or before that date and the
7 background check is approved by the federal bureau of
8 investigation."

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

11 "[NEW MATERIAL] DEPARTMENT OF PUBLIC SAFETY--DUTIES--
12 PUBLIC OUTREACH CAMPAIGN.--

13 A. The department of public safety shall take all
14 steps necessary to carry out the requirements of the Assault
15 Weapons Regulation Act by December 1, 2023.

16 B. The department of public safety shall develop
17 and implement a public notice and public outreach campaign to
18 promote awareness about the provisions of the Assault Weapons
19 Regulation Act and increase compliance with that act."

20 SECTION 8. A new section of Chapter 30, Article 7 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] APPLICABILITY OF NEW MEXICO CIVIL RIGHTS
23 ACT.--The New Mexico Civil Rights Act does not apply to
24 official actions taken in good faith compliance with the
25 Assault Weapons Regulation Act."

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