HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 101

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

AN ACT

RELATING TO FIREARMS; ENACTING THE ASSAULT WEAPONS REGULATION ACT; PROHIBITING ASSAULT WEAPONS, ASSAULT WEAPON ATTACHMENTS, .50 CALIBER RIFLES AND LARGE-CAPACITY AMMUNITION FEEDING DEVICES; 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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A. ".50 caliber rifle" means a centerfire rifle capable of firing a .50 caliber cartridge. ".50 caliber rifle" does not include an antique firearm, shotgun that has a rifle barrel or muzzle-loader that uses black powder for hunting or historical reenactments;

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

C. "assault weapon" means any of the following firearms:

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

(a) a pistol grip or thumbhole stock;

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

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

(d) a flash suppressor; or

(e) a grenade launcher;

(2) a semiautomatic rifle that has a fixed magazine with the capacity to accept more than ten rounds,

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except for an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition;

(3) a semiautomatic rife that has an overall length of less than thirty inches;

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

(a) a threaded barrel;

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

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

(d) a flash suppressor;

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

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

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

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(6) a shotgun with a revolving cylinder;

(7) a semiautomatic shotgun that has one or more of the following:

(a) a pistol grip or thumbhole stock;

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

(c) a folding or thumbhole stock;

(d) a grenade launcher;

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

(f) the capacity to accept a detachable magazine;

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

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

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

D. "assault weapon" does not include:

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

(2) an antique firearm or a replica of an

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antique firearm; or

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

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

F. "detachable magazine" means an ammunition feeding device that may be removed from a firearm without disassembly of the firearm action, including an ammunition feeding device that may be readily removed from a firearm with the use of a bullet, cartridge, accessory, other tool or other object that functions as a tool, including a bullet or cartridge;

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

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

I. "large-capacity ammunition feeding device" means

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a magazine, belt, drum, feed strip or similar device that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition. "Large-capacity ammunition feeding device" does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or magazines originally designed to accept more than ten rounds of ammunition that have been modified to accept no more than ten rounds and that are not capable of being readily restored to a capacity of more than ten rounds."

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

"[NEW MATERIAL] PROHIBITING THE MANUFACTURE, POSSESSION, DELIVERY, SALE, IMPORTATION AND PURCHASE OF ASSAULT WEAPONS, ASSAULT WEAPON ATTACHMENTS, .50 CALIBER RIFLES AND LARGE-CAPACITY AMMUNITION FEEDING DEVICES.--

A. Except as provided in Sections 4 and 5 of the Assault Weapons Regulation Act, it is unlawful for any person to knowingly manufacture, deliver, sell, import, purchase or cause to be manufactured, delivered, sold, imported or purchased by another an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device.

B. Except as provided in Sections 4 and 5 of the Assault Weapons Regulation Act, beginning on March 1, 2024, it

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is unlawful for any person to knowingly possess an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device.

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

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

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

A. Section 3 of the Assault Weapons Regulation Act does not apply to a person's possession of an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device if the person lawfully possessed that assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device prohibited by that section and if the person has provided an endorsement affidavit under oath or affirmation, prior to March 1, 2024, or the expiration of the period of time provided in Subsections E and F of this section, and in the form and manner prescribed by the department of public safety. The endorsement affidavit shall include:

(1) an affirmation that the affiant:

(a) possessed the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device before the effective date of the

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Assault Weapons Regulation Act;

(b) inherited the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device from a person with an endorsement pursuant to this section or from a person authorized pursuant to Paragraphs (1) through (5) of Subsection A of Section 5 of the Assault Weapons Regulation Act to possess the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device; or

(c) moved into the state in possession of the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device acquired while a resident of another state;

(2) as applicable, the make, model, caliber and serial number of the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device; and

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

B. No later than December 1, 2023, the department of public safety shall identify the list of commonly available assault weapons subject to an endorsement affidavit pursuant to this section, which shall be published and made available on the department's website. The department shall update the list as necessary.

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

D. Beginning on March 1, 2024, a person authorized pursuant to this section to possess an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device shall possess the items only:

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

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

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

(4) while engaged in the legal use of the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device at a properly licensed

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firing range or sport shooting competition venue; or

(5) while traveling to or from a location listed in Paragraphs (1) through (4) of this subsection or while traveling to another state for the purpose of transferring the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device pursuant to Subsection E of this section; provided that the assault weapon, assault weapon attachment or .50 caliber rifle is unloaded and the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device is enclosed in a case, firearm carrying box, shipping box or other container.

E. Beginning on March 1, 2024, a person with the endorsement for an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device or a person authorized pursuant to Paragraphs (1) through (5) of Subsection A of Section 5 of the Assault Weapons Regulation Act to possess an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device may transfer the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device only to an heir, an individual residing in another state maintaining it in another state, a dealer licensed as a federal firearms dealer pursuant to Section 923 of the federal Gun Control Act of 1968 or a person authorized pursuant to Paragraphs (1)

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through (5) of Subsection A of Section 5 of the Assault Weapons Regulation Act to possess the assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device. Within ten days after transfer of the weapon, attachment or device except to an heir, the person shall notify the department of public safety of the name and address of the transferee. The person to whom the weapon, attachment or device is transferred shall, within sixty days of the transfer, complete an endorsement affidavit pursuant to this section if the person is required to file an affidavit. A person to whom the weapon, attachment or device is transferred may transfer it only as provided in this subsection.

F. Except as provided in Section 5 of the Assault Weapons Regulation Act and beginning on March 1, 2024, any nonresident who moves into the state in possession of an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device shall, within sixty days, complete and submit an endorsement affidavit pursuant to this section.

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

H. Any person not subject to Section 3 of the

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Assault Weapons Regulation Act may submit an endorsement affidavit if the person chooses.

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

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

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

A. Subject to Subsection B of the section, the provisions of Section 3 of the Assault Weapons Regulation Act regarding the purchase or possession of assault weapons, assault weapon attachments, .50 caliber rifles and large-capacity ammunition feeding devices, as well as the provisions of that section that prohibit causing those items to be purchased or possessed, do not apply to:

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

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

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

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officers;

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

(5) members of the armed services or reserve forces of the United States or the New Mexico national guard;

(6) a company that employs armed security officers in this state at a nuclear energy, storage, weapons or development site or facility regulated by the nuclear regulatory commission and a person employed as an armed security force member at a nuclear energy, storage, weapons or development site or facility regulated by the nuclear regulatory commission who has completed the background screening and training mandated by the rules and regulations of the nuclear regulatory commission; and

(7) a private security contractor agency licensed pursuant to the Private Investigations Act that employs private security contractors and a private security contractor who is licensed and allowed to carry a firearm pursuant to that act.

B. The persons listed in Paragraphs (1), (2) and (4) through (7) of Subsection A of this section shall only possess an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device:

(1) while performing official duties;

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(2) while traveling to or from their place of work or duty; or

(3) under the circumstances outlined in Paragraphs (1) through (5) of Subsection D of Section 4 of the Assault Weapons Regulation Act.

C. The provisions of Section 3 of the Assault Weapons Regulation Act do not apply to the manufacture, delivery, sale, import, purchase or possession of an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device or causing the manufacture, delivery, sale, importation, purchase or possession of those items:

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

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

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

(1) possession of a firearm if that firearm is sanctioned by the international olympic committee and by USA shooting, the national governing body for international shooting competition in the United States, but only when the firearm is in the actual possession of an olympic target shooting competitor or target shooting coach for the purpose of

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storage, transporting to and from olympic target shooting practice or events if the firearm is broken down in a nonfunctioning state, is not immediately accessible or is unloaded and enclosed in a firearm case, carrying box, shipping box or other similar portable container designed for the safe transportation of firearms; and when the olympic target shooting competitor or target shooting coach is engaging in those practices or events;

(2) a nonresident who transports, within twenty-four hours, an assault weapon, assault weapon attachment, .50 caliber rifle or large-capacity ammunition feeding device for a lawful purpose from a place where the nonresident may lawfully possess and carry those items to another place where the nonresident may lawfully possess and carry those items if, during the transportation, the assault weapon, assault weapon attachment or .50 caliber rifle is unloaded, and neither the assault weapon, assault weapon attachment, .50 caliber rifle nor large-capacity ammunition feeding device being transported is readily accessible or is directly accessible from the passenger compartment of the transporting vehicle. In the case of a vehicle without a compartment separate from the driver's compartment, the assault weapon, .50 caliber rifle, assault weapon attachment or large-capacity ammunition feeding device shall be contained in a locked container other than the glove compartment or console;

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

(4) possession of a firearm approved by the department of public safety only for hunting use expressly permitted under Chapter 17 NMSA 1978 or while traveling to or from a location authorized for this hunting use under Chapter 17 NMSA 1978 if the firearm is broken down in a nonfunctioning state, is not immediately accessible or is unloaded and enclosed in a firearm case, carrying box, shipping box or other similar portable container designed for the safe transportation of firearms. By December 1, 2023, the department of public safety, in consultation with the department of game and fish, shall adopt rules concerning the list of firearms approved under this paragraph."

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

"[NEW MATERIAL] PENDING SALES AND TRANSFERS.--A sale or transfer requiring a federal instant background check pursuant to Section 30-7-7.1 NMSA 1978 is allowed to be completed after

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the effective date of the Assault Weapons Regulation Act if the background check is initiated on or before that date and the background check is approved by the federal bureau of investigation."

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

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

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

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

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

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

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

"[NEW MATERIAL] SEVERABILITY.--

A. If any part or application of the Assault

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Weapons Regulation Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

B. Should a court of competent jurisdiction hold that Section 3 of the Assault Weapons Regulation Act is invalid in whole or in part, the requirement to file an endorsement affidavit pursuant to Section A of Section 4 of that act shall be deemed to apply to all resident owners of assault weapons, assault weapon attachments, .50 caliber rifles or large-capacity ammunition feeding devices, except for those persons listed in Paragraphs (1) through (5) of Subsection A of Section 5 of that act and persons who hold a valid federal firearms license issued pursuant to 18 U.S.C. Section 923(a). All persons required to file an endorsement affidavit shall do so by the date set by rule by the department of public safety following the court holding."

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