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S.40

Introduced by Senators Clarkson, Hardy, Gulick, Harrison, McCormack, Ram
Hinsdale, Watson and White

Referred to Committee on

Date:

Subject: Criminal and civil procedures; firearms

Statement of purpose of bill as introduced: This bill proposes to (1) require a 72-hour waiting period for most firearms transfers; (2) repeal the statute that permits large capacity ammunition feeding devices to be manufactured in Vermont; (3) require that, when a firearm is not in a person's immediate possession or control, the firearm must be locked in a safe storage depository or rendered incapable of being fired, or stored with a cooperating law enforcement agency, another State or municipal agency that permits firearms storage, or a federally licensed firearms dealer that accepts relinquished firearms; (4) provide a premium discount on homeowners insurance policies to policyholders who store their firearms in compliance with safe storage requirements; (5) prohibit possession of semiautomatic assault weapons; (6) prohibit using a three-dimensional printer to manufacture a firearm and prohibit distributing digital instructions for using a three-dimensional printer to manufacture a firearm; and (7) permit firearms industry members to be held liable for damages in public nuisance lawsuits.

1 An act relating to firearms procedures

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 13 V.S.A. § 4019a is added to read:

4 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

5 (a) A person shall not transfer a firearm to another person until 72 hours
6 after the completion of the background check required by 18 U.S.C. § 922(s)
7 or section 4019 of this title.

8 (b) A person who transfers a firearm to another person in violation of
9 subsection (a) of this section shall be imprisoned not more than one year or
10 fined not more than \$500.00, or both.

11 (c) This section shall not apply to a firearms transfer that does not require a
12 background check under 18 U.S.C. § 922(s) or section 4019 of this title.

13 Sec. 2. 13 V.S.A. § 4021 is amended to read:

14 § 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

15 (a) A person shall not manufacture, possess, transfer, offer for sale,
16 purchase, or receive or import into this State a large capacity ammunition
17 feeding device. As used in this subsection, “import” does not include the
18 transportation back into this State of a large capacity ammunition feeding
19 device by the same person who transported the device out of State if the person
20 possessed the device on or before the effective date of this section.

21 * * *

1 (d)(1) This section shall not apply to any large capacity ammunition
2 feeding device:

3 * * *

4 (C) transferred to a licensee under Title I of the Atomic Energy Act
5 of 1954 for purposes of establishing and maintaining an on-site physical
6 protection system and security organization required by federal law, or
7 possessed by an employee or contractor of such a licensee on-site for these
8 purposes, or off-site for purposes of licensee-authorized training or
9 transportation of nuclear materials;

10 (D) possessed by an individual who is retired from service with a law
11 enforcement agency after having been transferred to the individual by the
12 agency upon ~~his or her~~ the individual's retirement, provided that the individual
13 is not otherwise prohibited from receiving ammunition; or

14 (E) ~~manufactured, imported, transferred, or possessed by a~~
15 ~~manufacturer or importer licensed under 18 U.S.C. chapter 44:~~

16 (i) ~~for the purposes of testing or experimentation authorized by the~~
17 ~~U.S. Attorney General, or for product development;~~

18 (ii) ~~for repair and return to the person from whom it was received;~~

19 ~~or~~

20 (iii) ~~for transfer in foreign or domestic commerce for delivery and~~
21 ~~possession outside the State of Vermont; or [Repealed.]~~

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Sec. 3. 13 V.S.A. § 4024 is added to read:

§ 4024. SAFE STORAGE

(a) A person shall not store or otherwise leave a firearm outside the person's immediate possession or control without having first securely locked the firearm in a safe storage depository or, by use of a tamper-resistant mechanical gun lock or other device appropriate to that weapon, rendered it incapable of being fired.

(b) A person who violates this section shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(c) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Safe storage depository" means a safe or other secure container that, when locked, is incapable of being opened without the key, combination, or other unlocking mechanism so as to prevent an unauthorized person from obtaining access to the weapon.

(d)(1) A State or municipal agency, or a cooperating law enforcement agency or federally licensed firearms dealer that accepts relinquished firearms under 20 V.S.A. § 2307, may accept a firearm for temporary storage at any

1 time. Fees for temporary storage under this subsection may be charged
2 consistent with the fees authorized by 20 V.S.A. § 2307(d)(1) and (2).

3 (2) A person shall not be subject to criminal liability under subsection
4 (a) of this section for a firearm that is temporarily stored under this subsection
5 (d).

6 Sec. 4. 8 V.S.A. § 3861a is added to read:

7 § 3861a. PREMIUM DISCOUNT FOR SAFE STORAGE OF FIREARMS

8 (a) Notwithstanding any other provision of law to the contrary, an
9 insurance company shall offer a premium discount under a homeowners
10 insurance policy if the policyholder submits to the insurance company a
11 written certification that any firearm owned by or in the possession of the
12 policyholder or any person that resides on the insured property is stored in a
13 manner that meets the safe firearms storage requirements of 13 V.S.A. § 4024.

14 (b) The Commissioner of Financial Regulation shall adopt rules necessary
15 for the implementation of this section. The rules shall include:

16 (1) standards relating to the form and content of the policyholder
17 certification required under subsection (a) of this section;

18 (2) the minimum premium discount available under this section, which
19 shall reflect the reduced exposure to loss effected by the safe storage of
20 firearms; and

1 (3) any other standards or procedures the Commissioner deems
2 necessary or appropriate.

3 (c) This section shall apply to all homeowners insurance policies offered or
4 renewed on or after January 1, 2024.

5 Sec. 5. 13 V.S.A. § 4020a is added to read

6 § 4020a. POSSESSION OF SEMIAUTOMATIC ASSAULT WEAPONS

7 PROHIBITED

8 (a) A person shall not possess a semiautomatic assault weapon.

9 (b) A person who violates this section shall be imprisoned for not more
10 than one year or fined not more than \$500.00, or both.

11 (c) This section shall not apply to any semiautomatic assault weapon
12 possessed by:

13 (1) a federal law enforcement officer or a law enforcement officer
14 certified as a law enforcement officer by the Vermont Criminal Justice
15 Training Council pursuant to 20 V.S.A. § 2358 for legitimate law enforcement
16 purposes, whether the officer is on or off duty; or

17 (2) an active member of the Vermont National Guard, of the National
18 Guard of another state, or of the U.S. Armed Forces.

19 (d)(1) As used in this section, “semiautomatic assault weapon” means:

20 (A) a semiautomatic rifle that has an ability to accept a detachable
21 magazine and has at least one of the following features:

1 (i) a folding or telescoping stock;

2 (ii) a pistol grip that protrudes conspicuously beneath the action of
3 the weapon;

4 (iii) a thumbhole stock;

5 (iv) a second handgrip or a protruding grip that can be held by the
6 nontrigger hand;

7 (v) a bayonet mount;

8 (vi) a flash suppressor, muzzle break, muzzle compensator, or
9 threaded barrel designed to accommodate a flash suppressor, muzzle break, or
10 muzzle compensator; or

11 (vii) a grenade launcher;

12 (B) a semiautomatic pistol that has an ability to accept a detachable
13 magazine and has at least one of the following features:

14 (i) a folding or telescoping stock;

15 (ii) a thumbhole stock;

16 (iii) a second handgrip or a protruding grip that can be held by the
17 nontrigger hand;

18 (iv) capacity to accept an ammunition magazine that attaches to
19 the pistol outside the pistol grip;

20 (v) a threaded barrel capable of accepting a barrel extender, flash
21 suppressor, forward handgrip, or silencer;

1 (vi) a shroud that is attached to, or partially or completely
2 encircles, the barrel and that permits the shooter to hold the firearm with the
3 nontrigger hand without being burned;

4 (vii) a manufactured weight of 50 ounces or more when the pistol
5 is unloaded; or

6 (viii) a semiautomatic version of an automatic firearm; or

7 (C) a semiautomatic shotgun that has at least one of the following
8 features:

9 (i) a folding or telescoping stock;

10 (ii) a thumbhole stock;

11 (iii) a second handgrip or a protruding grip that can be held by the
12 nontrigger hand;

13 (iv) a fixed magazine capacity in excess of seven rounds; or

14 (v) an ability to accept a detachable magazine.

15 (2) "Semiautomatic assault weapon" does not include:

16 (A) a firearm that:

17 (i) is manually operated by bolt, pump, lever, or slide action;

18 (ii) has been rendered permanently inoperable; or

19 (iii) is an antique firearm as defined in section 4017 of this title;

20 (B) a semiautomatic rifle that cannot accept a detachable magazine
21 that holds more than five rounds of ammunition; or

1 (C) a semiautomatic shotgun that cannot hold more than five rounds
2 of ammunition in a fixed or detachable magazine.

3 Sec. 6. 13 V.S.A. § 4025 is added to read:

4 § 4025. THREE-DIMENSIONAL PRINTERS; USE FOR MANUFACTURE
5 OF FIREARMS PROHIBITED

6 (a) A person shall not:

7 (1) use a three-dimensional printer to manufacture or produce a firearm,
8 firearm frame or receiver, firearm magazine, or firearm component; or

9 (2) distribute or attempt to distribute, via the Internet or any other
10 means, digital instructions for programing a three-dimensional printer to
11 manufacture or produce a firearm, firearm frame or receiver, firearm magazine,
12 or firearm component.

13 (b) A person who violates this section shall be imprisoned for not more
14 than one year or fined not more than \$500.00, or both.

15 (c) This section shall not apply to a person licensed to manufacture
16 firearms under 18 U.S.C. § 923.

17 (d) As used in this section:

18 (1) “Digital instructions” means computer-aided design files or other
19 code or instructions stored and displayed in electronic format as a digital
20 model.

1 (4) “Firearm-related product” means a firearm, ammunition, or firearm
2 or ammunition component.

3 (5) “Firearm industry member” means a person, company, corporation,
4 or any other entity or association engaged in the sale, manufacture,
5 distribution, importation, or marketing of firearm-related products.

6 (6) “Public nuisance” means a condition that injures, endangers, or
7 threatens to injure or endanger or contributes to the injury or endangerment of
8 the health, safety, peace, comfort, or convenience of others or otherwise
9 constitutes a public nuisance under common law.

10 (7) “Reasonable controls” means reasonable procedures, safeguards, and
11 business practices that are designed to:

12 (A) prevent the sale or distribution of a firearm-related product to a
13 straw purchaser, firearm trafficker, a person prohibited from possessing a
14 firearm under state or federal law, or a person who the firearm industry
15 member has reasonable cause to believe is as substantial risk of using a
16 firearm-related product to harm themselves or another person;

17 (B) prevent the loss of a firearm-related product or theft of a firearm-
18 related product from a firearm industry member; and

19 (C) ensure that the firearm industry member complies with all
20 provisions of state and federal law and does not otherwise promote the

1 unlawful manufacture, sale, possession, marketing, or use of a firearm-related
2 product.

3 (8) “Straw purchaser” means a person who conceals or intends to
4 conceal from another person that the purchase of a firearm-related product is
5 being made on behalf of a third party. “Straw purchaser” does not include a
6 bona fide gift to a person who is not prohibited by state or federal law from
7 possessing a firearm.

8 § 4072. PROHIBITED ACTS

9 (a) A firearm industry member shall not, by conduct unlawful in itself or
10 unreasonable under all the circumstances, knowingly or recklessly create,
11 maintain, or contribute to a public nuisance through the sale, manufacture,
12 importation, or marketing of a firearm-related product.

13 (b) A firearm industry member shall establish and implement reasonable
14 controls regarding the manufacture, sale, distribution, use, and marketing of
15 the firearm industry member’s firearm-related products.

16 § 4073. PUBLIC NUISANCE

17 (a) A violation of section 4072 of this title that results in harm to the public
18 is deemed to be a public nuisance.

19 (b) The existence of a public nuisance shall not depend on whether the
20 firearms industry member acted with the intent to cause harm to the public.

1 § 4074. ENFORCEMENT

2 (a) Whenever the Attorney General has reason to believe that any person is
3 violating or about to violate section 4072 of this title and that proceedings
4 would be in the public interest, the Attorney General may bring an action in the
5 name of the State against the person to restrain the violation by temporary or
6 permanent injunction. The action may be brought in the Superior Court of the
7 county in which the person resides, has a place of business, or is doing
8 business. The courts are authorized to issue temporary or permanent
9 injunctions to restrain and prevent violations of this chapter.

10 (b) In addition to injunctive relief, the Attorney General may seek and
11 obtain the following relief in an action under this section:

12 (1) an order providing for abatement of the nuisance at the expense of
13 the firearm industry member;

14 (2) restitution; and

15 (3) damages, punitive damages in the case of a willful violation, and
16 reasonable costs and attorney's fees.

17 § 4075. PRIVATE RIGHT OF ACTION

18 Any person who has been injured by a violation of section 4072 of this title
19 may bring an action in Superior Court for damages, injunctive relief, punitive
20 damages in the case of a willful violation, and reasonable costs and attorney's
21 fees.

1 Sec. 8. 18 V.S.A. § 13 is added to read:

2 § 13. PROVISION OF INFORMATION REGARDING SAFE STORAGE
3 OF FIREARMS

4 The Department of Health, in consultation with pediatricians and other
5 primary care providers, shall develop guidance and discussion points about
6 firearm storage and safety for inclusion in conversations between health care
7 providers and patients during primary care visits. The Department shall make
8 the guidance and discussion points available to health care providers in
9 Vermont on the Department's website and through other reasonably available
10 means.

11 Sec. 9. EFFECTIVE DATE

12 This act shall take effect on passage.