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H.606

Introduced by Representatives Arsenault of Williston, LaLonde of South Burlington, Bishop of Colchester, Campbell of St. Johnsbury, Chapin of East Montpelier, Cole of Hartford, Dolan of Essex Junction, Garofano of Essex, Goldman of Rockingham, Graning of Jericho, Headrick of Burlington, Holcombe of Norwich, James of Manchester, Krasnow of South Burlington, McCann of Montpelier, Mrowicki of Putney, Olson of Starksboro, Pezzo of Colchester, Pouech of Hinesburg, Satcowitz of Randolph, Scheu of Middlebury, Sheldon of Middlebury, Squirrell of Underhill, Stone of Burlington, and Waters Evans of Charlotte

Referred to Committee on

Date:

Subject: Criminal and civil procedures; firearms

Statement of purpose of bill as introduced: This bill proposes to enact the following provisions related to firearms: (1) provide that stealing a firearm of any value constitutes grand larceny; (2) increase the penalties for second or subsequent offenses of firearms possession by prohibited persons; (3) prohibit the possession of firearms by persons who have been found by a court to pose a danger of harm to themselves or others as the result of a mental illness; (4)

1 prohibit the possession of machine guns and rapid fire devices that permit a
2 weapon to function as or mimic a machine gun; and (5) permit firearms
3 industry members to be held liable for damages in public nuisance lawsuits.

4 An act relating to firearms procedures

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

6 ~~Sec. 1, 13 V.S.A., § 2501 is amended to read:~~

7 § 2501. GRAND LARCENY

8 (a) A person who steals from the actual or constructive possession of
9 another, other than from his or her person, money, goods, chattels, bank notes,
10 bonds, promissory notes, bills of exchange or other bills, orders, or certificates,
11 or a book of accounts for or concerning money, or goods due or to become due
12 or to be delivered, or a deed or writing containing a conveyance of land, or any
13 other valuable contract in force, or a receipt, release or defeasance, writ,
14 process, or public record, shall be imprisoned not more than 10 years or fined
15 not more than \$5,000.00, or both, if:

16 (1) the money or other property stolen exceeds \$900.00 in value; or

17 (2) the property stolen is a firearm of any value.

18 (b) As used in this section, "firearm" has the same meaning as in section
19 4010 of this title.

1 ~~Sec. 2-13 V.S.A. § 4017 is amended to read:~~

2 § 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;

3 CONVICTION OF VIOLENT CRIME

4 (a) A person shall not possess a firearm if the person has been convicted of
5 a violent crime.

6 (b) A person who violates this section shall:

7 (1) for a first offense, be imprisoned not more than two years or fined
8 not more than \$1,000.00, or both; or

9 (2) for a second or subsequent offense, be imprisoned not more than
10 three years or fined not more than \$5,000.00, or both.

11 (c) This section shall not apply to a person who is exempt from federal
12 firearms restrictions under 18 U.S.C. § 925(c).

13 (d) As used in this section:

14 (1)(A) "Firearm" means:

15 (i) any weapon (including a starter gun) that will or is designed to
16 or may readily be converted to expel a projectile by the action of an explosive;

17 (ii) the frame or receiver of any such weapon; or

18 (iii) any firearm muffler or firearm silencer.

19 ~~(B) "Firearm" shall not include an antique firearm.~~

1 (2) "Antique firearm" means:

2 (A) Any firearm (including any firearm with a matchlock, flintlock,
3 percussion cap, or similar type of ignition system) manufactured in or before
4 1898.

5 (B) Any replica of any firearm described in subdivision (A) of this
6 subdivision (2) if the replica:

7 (i) is not designed or redesigned for using rimfire or conventional
8 centerfire fixed ammunition; or

9 (ii) uses rimfire or conventional centerfire fixed ammunition that
10 is no longer manufactured in the United States and that is not readily available
11 in the ordinary channels of commercial trade.

12 (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle
13 loading pistol that is designed to use black powder or a black powder
14 substitute and that cannot use fixed ammunition. As used in this subdivision

15 (C), "antique firearm" shall not include a weapon that incorporates a firearm
16 frame or receiver, a firearm that is converted into a muzzle loading weapon, or
17 any muzzle loading weapon that can be readily converted to fire fixed
18 ammunition by replacing the barrel, bolt, breechblock, or any combination
19 thereof.

20 (3) "Violent crime" means.

1 ~~(A)(i) A listed crime as defined in subdivision 5201(7) of this title~~

2 other than:

3 (I) lewd or lascivious conduct as defined in section 2601 of this
4 title;

5 (II) recklessly endangering another person as defined in section
6 1025 of this title;

7 (III) operating a vehicle under the influence of alcohol or other
8 substance with either death or serious bodily injury resulting as defined in 23
9 V.S.A. § 1210(f) and (g);

10 (IV) careless or negligent operation resulting in serious bodily
11 injury or death as defined in 23 V.S.A. § 1091(b);

12 (V) leaving the scene of an accident resulting in serious bodily
13 injury or death as defined in 23 V.S.A. § 1128(b) or (c); or

14 (VI) a misdemeanor violation of chapter 28 of this title,
15 relating to abuse, neglect, and exploitation of vulnerable adults; or

16 (ii) a comparable offense and sentence in another jurisdiction if
17 the offense prohibits the person from possessing a firearm under 18 U.S.C.
18 § 922(g)(1) or 18 U.S.C. § 921(a)(20).

19 (B) An offense involving sexual exploitation of children in violation
20 of chapter 64 of this title; or a comparable offense and sentence in another

1 ~~jurisdiction if the offense prohibits the person from possessing a firearm under~~

2 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

3 (C) A violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) (selling,
4 dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3) (selling or dispensing
5 LSD); 4233(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking heroin);
6 4234(b)(2) or (b)(3) (selling or dispensing depressants, stimulants, and
7 narcotics); 4234a(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking
8 methamphetamine); 4235(c)(2) or (c)(3) (selling or dispensing hallucinogenic
9 drugs); 4235a(b)(2) or (b)(3) (selling or dispensing Ecstasy), or a comparable
10 offense and sentence in another jurisdiction if the offense prohibits the person
11 from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
12 § 921(a)(20).

13 (D) A conviction of possession with intent to distribute a controlled
14 substance other than cannabis in another jurisdiction if the offense prohibits
15 the person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
16 § 921(a)(20).

17 Sec. 3. 13 V.S.A. § 4017a is amended to read:

18 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
19 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
20 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
21 ~~POSSESSION OF FIREARMS~~

1 ~~(a) A person shall not possess a firearm if the person:~~
2 (1) is a fugitive from justice;
3 (2) is the subject of a final relief from abuse order issued pursuant to
4 15 V.S.A. § 1103;
5 (3) is the subject of a final order against stalking issued pursuant to
6 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;
7 ~~or~~
8 (4) is a person against whom charges are pending for:
9 (A) carrying a dangerous weapon while committing a felony in
10 violation of section 4005 of this title;
11 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
12 subchapter 1; or
13 (C) human trafficking or aggravated human trafficking in violation
14 of section 2652 or 2653 of this title; or
15 (5)(A)(i) has been found by the court to be a person in need of treatment
16 pursuant to section 4822 of this title; or
17 (ii) has been the subject of a hospitalization order issued by the
18 court pursuant to 18 V.S.A. § 7617(b)(1) or (2) or a nonhospitalization order
19 issued by the court pursuant to 18 V.S.A. § 7617(b)(3).

1 ~~(B) This subdivision (5) shall not apply to a person if the Family~~

2 Division grants a petition for relief from firearms disability for the person
3 pursuant to section 4825 of this title.

4 (b) A person who violates this section shall:

5 (1) for a first offense, be imprisoned not more than two years or fined
6 not more than \$1,000.00, or both; or

7 (2) for a second or subsequent offense, be imprisoned not more than
8 three years or fined not more than \$5,000.00, or both.

9 (c) As used in this section:

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

11 (2) "Fugitive from justice" means a person who has fled to avoid
12 prosecution for a crime or to avoid giving testimony in a criminal proceeding.

13 Sec. 4. 13 V.S.A. § 4022 is amended to read:

14 § 4022. BUMP-FIRE STOCKS; MACHINE GUNS; RAPID-FIRE

15 DEVICES; POSSESSION PROHIBITED

16 (a) As used in this section:

17 (1) ~~"bump fire stock"~~ "Bump-fire stock" means a butt stock designed to
18 be attached to a semiautomatic firearm and intended to increase the rate of fire
19 achievable with the firearm to that of a fully automatic firearm by using the
20 energy from the recoil of the firearm to generate a reciprocating action that
21 ~~facilitates the repeated activation of the trigger.~~

1 ~~(2) “Auto sear” means a device, other than a bump stock, designed to~~
2 convert a semi-automatic firearm to shoot more than one shot with a single
3 pull of the trigger without manual reloading.

4 ~~(3) “Machine gun” means any weapon that shoots, is designed to shoot,~~
5 or can be readily restored to shoot automatically more than one shot without
6 manual reloading, by a single function of the trigger. “Machine gun” also
7 includes the frame or receiver of any such weapon; any part designed and
8 intended solely and exclusively, or combination of parts designed and
9 intended, for use in converting a weapon into a machine gun; and any
10 combination of parts from which a machine gun can be assembled if the parts
11 are in the possession or under the control of a person.

12 ~~(4) “Rapid-fire device” means any device, including an auto sear, that~~
13 when installed in or attached to a firearm increases the weapon’s rate of fire or
14 the rate at which the trigger is activated.

15 ~~(b) A person shall not possess a bump-fire stock, machine gun, or rapid-~~
16 fire device. A person who violates this subsection shall be imprisoned not
17 more than one year or fined not more than \$1,000.00, or both.

18 ~~(c) The Department of Public Safety shall develop, promote, and execute a~~
19 collection process that permits persons to voluntarily and anonymously
20 relinquish bump-fire stocks prior to the effective date of this section October 1,
21 2018.

1 ~~Sec. 5, 13 V.S.A., chapter 85, subchapter 5 is added to read:~~

2 Subchapter 5. Manufacturing, Importing, and Marketing of Firearms; Liability

3 for Public Nuisance

4 § 4091. DEFINITIONS

5 As used in this subchapter:

6 (1) “Deceptive acts or practices” has the same meaning as in 8 V.S.A.

7 § 4724.

8 (2) “False advertising” has the same meaning as in 8 V.S.A. § 4724.

9 (3) “Firearm” has the same meaning as in subsection 4017(d) of this
10 title.

11 (4) “Firearm accessory” means an accessory or device that is:

12 (A) designed or adapted to be inserted into, affixed onto, or used in
13 conjunction with a firearm, if the device is marketed or sold to the public; and

14 (B) designed, intended, or able to be used to:

15 (i) increase a firearm’s rate of fire, concealability, magazine
16 capacity, or destructive capacity; or

17 (ii) to increase a firearm’s stability and handling when the firearm
18 is repeatedly fired.

19 (5) “Firearm industry member” means a person, company, corporation,
20 or any other entity or association engaged in the sale, manufacture,

21 distribution, importation, or marketing of firearm-related products in Vermont.

1 ~~(6) “Firearm-related product” means a firearm, ammunition, firearm or~~
2 ~~ammunition component, or firearm accessory, including an unfinished frame~~
3 ~~or receiver.~~

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

8 (8) “Reasonable controls” means reasonable procedures, safeguards, and
9 business practices that are designed to:

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

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

17 (C) ensure that the firearm industry member:

18 (i) complies with all provisions of state and federal law, and

19 (ii) does not engage in false advertising or engage in deceptive
20 acts or practices with respect to or otherwise promote the unlawful

21 manufacture, sale, possession, marketing, or use of a firearm-related product.

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

6 (10) “Unfinished frame or receiver” has the same meaning as in section
7 4082 of this title.

8 § 4092. PROHIBITED ACTS

9 (a) A firearm industry member shall not, by conduct unlawful in itself or
10 unreasonable under all the circumstances, knowingly create, maintain, or
11 contribute to a public nuisance in Vermont 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 (c) The Attorney General has the same authority to make rules, conduct
17 civil investigations, enter into assurances of discontinuance, and bring civil
18 actions with respect to any alleged violations of this subchapter, and private
19 parties have the same rights and remedies, as provided under 9 V.S.A. chapter
20 65, subchapter 1.

1 ~~§ 4092. PUBLIC NUISANCE~~

2 ~~(a) A violation of section 4092 of this title that results in harm to the public~~
3 ~~is deemed to be a public nuisance.~~

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

6 Sec. 6. EFFECTIVE DATE

7 ~~This act shall take effect on passage.~~

Sec. 1. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND LARCENY

(a) A person who steals from the actual or constructive possession of another, other than from his or her person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, shall be imprisoned not more than 10 years or fined not more than \$5,000.00, or both, if:

(1) the money or other property stolen exceeds \$900.00 in value; or

(2) the property stolen is a firearm of any value.

(b) As used in this section, "firearm" has the same meaning as in section 4017 of this title.

Sec. 2. 13 V.S.A. § 4017 is amended to read:

§ 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;

CONVICTION OF VIOLENT CRIME

(a) A person shall not possess a firearm if the person has been convicted of a violent crime.

(b) A person who violates this section shall:

(1) for a first offense, be imprisoned not more than two years or fined not more than \$1,000.00, or both; or

(2) for a second or subsequent offense, be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(c) This section shall not apply to a person who is exempt from federal firearms restrictions under 18 U.S.C. § 925(c).

(d) As used in this section:

(1)(A) "Firearm" means:

(i) any weapon (including a starter gun) that will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(ii) the frame or receiver of any such weapon; or

(iii) any firearm muffler or firearm silencer.

(B) "Firearm" ~~shall~~ does not include an antique firearm.

(2) *“Antique firearm” means:*

(A) *Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898.*

(B) *Any replica of any firearm described in subdivision (A) of this subdivision (2) if the replica:*

(i) *is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or*

(ii) *uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade.*

(C) *Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol that is designed to use black powder or a black powder substitute and that cannot use fixed ammunition. As used in this subdivision (C), “antique firearm” shall does not include a weapon that incorporates a firearm frame or receiver; a firearm that is converted into a muzzle loading weapon, or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.*

(3) *“Violent crime” means:*

(A)(i) A listed crime as defined in subdivision 5301(7) of this title other than:

(I) lewd or lascivious conduct as defined in section 2601 of this title;

(II) recklessly endangering another person as defined in section 1025 of this title;

(III) operating a vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(IV) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(V) leaving the scene of an accident resulting in serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c); or

(VI) a misdemeanor violation of chapter 28 of this title, relating to abuse, neglect, and exploitation of vulnerable adults; or

(ii) a comparable offense and sentence in another jurisdiction if the offense prohibits the person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

(B) An offense involving sexual exploitation of children in violation of chapter 64 of this title, or a comparable offense and sentence in another

jurisdiction if the offense prohibits the person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

(C) A violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3) (selling or dispensing LSD); 4233(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking heroin); 4234(b)(2) or (b)(3) (selling or dispensing depressants, stimulants, and narcotics); 4234a(b)(2), (b)(3), or (c) (selling, dispensing, or trafficking methamphetamine); 4235(c)(2) or (c)(3) (selling or dispensing hallucinogenic drugs); 4235a(b)(2) or (b)(3) (selling or dispensing Ecstasy), or a comparable offense and sentence in another jurisdiction if the offense prohibits the person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

(D) A conviction of possession with intent to distribute a controlled substance other than cannabis in another jurisdiction if the offense prohibits the person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

Sec. 3. 13 V.S.A. § 4017a is amended to read:

*§ 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
POSSESSION OF FIREARMS*

(a) A person shall not possess a firearm if the person:

(1) is a fugitive from justice;

(2) is the subject of a final relief from abuse order issued pursuant to 15 V.S.A. § 1103;

(3) is the subject of a final order against stalking issued pursuant to 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm; ~~or~~

(4) is a person against whom charges are pending for:

(A) carrying a dangerous weapon while committing a felony in violation of section 4005 of this title;

(B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1; or

(C) human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title; or

(5)(A)(i) has been found by the court to be a person in need of treatment pursuant to section 4822 of this title and:

(I) not guilty by reason of insanity of a violent crime as defined in section 4017 of this title; or

(II) incompetent to stand trial for an offense listed in subdivision (4) of this subsection (a);

(ii) is the subject of a commitment order issued by the court pursuant to section 4822 of this title and the offense charged was not a violent crime; or

(iii) is the subject of a hospitalization order issued by the court pursuant to 18 V.S.A. § 7617(b)(1) or (2) or a nonhospitalization order issued by the court pursuant to 18 V.S.A. § 7617(b)(3).

(B) Subdivision (A) of this subdivision (5) shall not apply to a person if the Family Division grants a petition for relief from firearms disability for the person pursuant to section 4825 of this title.

(b) A person who violates this section shall:

(1) for a first offense, be imprisoned not more than two years or fined not more than \$1,000.00, or both; or

(2) for a second or subsequent offense, be imprisoned not more than three years or fined not more than \$5,000.00, or both.

(c) As used in this section:

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

(2) "Fugitive from justice" means a person who has fled:

(A) to avoid prosecution for a crime Vermont criminal offense or for an offense that would be a crime if committed in Vermont; or

(B) to avoid giving testimony in a criminal proceeding.

Sec. 4. 13 V.S.A. § 4022 is amended to read:

§ 4022. BUMP-FIRE STOCKS; MACHINE GUNS; POSSESSION

PROHIBITED

(a) As used in this section,:

(1) ~~“bump-fire stock”~~ “Bump-fire stock” means a butt stock designed to be attached to a semiautomatic firearm and intended to increase the rate of fire achievable with the firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate a reciprocating action that facilitates the repeated activation of the trigger.

(2) “Machine gun” means any weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon; any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun; and any combination of parts from which a machine gun can be assembled if the parts are in the possession or under the control of a person. The term does not include any weapon or other item that is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives, or that is otherwise not subject to that registration requirement.

(b) A person shall not possess a bump-fire stock or a machine gun. A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) The Department of Public Safety shall develop, promote, and execute a collection process that permits persons to voluntarily and anonymously relinquish bump-fire stocks prior to ~~the effective date of this section~~ October 1, 2018.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.