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**SENATE BILL 5061**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Dhingra and Pedersen; by request of Attorney General

Prefiled 12/31/18.

1 AN ACT Relating to undetectable firearms; amending RCW 9.41.010,  
2 9.41.190, 9.41.220, and 9.41.225; creating a new section; prescribing  
3 penalties; providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.41.010 and 2018 c 7 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Antique firearm" means a firearm or replica of a firearm not  
10 designed or redesigned for using rim fire or conventional center fire  
11 ignition with fixed ammunition and manufactured in or before 1898,  
12 including any matchlock, flintlock, percussion cap, or similar type  
13 of ignition system and also any firearm using fixed ammunition  
14 manufactured in or before 1898, for which ammunition is no longer  
15 manufactured in the United States and is not readily available in the  
16 ordinary channels of commercial trade.

17 (2) "Barrel length" means the distance from the bolt face of a  
18 closed action down the length of the axis of the bore to the crown of  
19 the muzzle, or in the case of a barrel with attachments to the end of  
20 any legal device permanently attached to the end of the muzzle.

1 (3) "Bump-fire stock" means a butt stock designed to be attached  
2 to a semiautomatic firearm with the effect of increasing the rate of  
3 fire achievable with the semiautomatic firearm to that of a fully  
4 automatic firearm by using the energy from the recoil of the firearm  
5 to generate reciprocating action that facilitates repeated activation  
6 of the trigger.

7 (4) "Crime of violence" means:

8 (a) Any of the following felonies, as now existing or hereafter  
9 amended: Any felony defined under any law as a class A felony or an  
10 attempt to commit a class A felony, criminal solicitation of or  
11 criminal conspiracy to commit a class A felony, manslaughter in the  
12 first degree, manslaughter in the second degree, indecent liberties  
13 if committed by forcible compulsion, kidnapping in the second degree,  
14 arson in the second degree, assault in the second degree, assault of  
15 a child in the second degree, extortion in the first degree, burglary  
16 in the second degree, residential burglary, and robbery in the second  
17 degree;

18 (b) Any conviction for a felony offense in effect at any time  
19 prior to June 6, 1996, which is comparable to a felony classified as  
20 a crime of violence in (a) of this subsection; and

21 (c) Any federal or out-of-state conviction for an offense  
22 comparable to a felony classified as a crime of violence under (a) or  
23 (b) of this subsection.

24 (5) "Curio or relic" has the same meaning as provided in 27  
25 C.F.R. Sec. 478.11.

26 (6) "Dealer" means a person engaged in the business of selling  
27 firearms at wholesale or retail who has, or is required to have, a  
28 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
29 does not have, and is not required to have, a federal firearms  
30 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person  
31 makes only occasional sales, exchanges, or purchases of firearms for  
32 the enhancement of a personal collection or for a hobby, or sells all  
33 or part of his or her personal collection of firearms.

34 (7) "Family or household member" means "family" or "household  
35 member" as used in RCW 10.99.020.

36 (8) "Felony" means any felony offense under the laws of this  
37 state or any federal or out-of-state offense comparable to a felony  
38 offense under the laws of this state.

39 (9) "Felony firearm offender" means a person who has previously  
40 been convicted or found not guilty by reason of insanity in this

1 state of any felony firearm offense. A person is not a felony firearm  
2 offender under this chapter if any and all qualifying offenses have  
3 been the subject of an expungement, pardon, annulment, certificate,  
4 or rehabilitation, or other equivalent procedure based on a finding  
5 of the rehabilitation of the person convicted or a pardon, annulment,  
6 or other equivalent procedure based on a finding of innocence.

7 (10) "Felony firearm offense" means:

8 (a) Any felony offense that is a violation of this chapter;

9 (b) A violation of RCW 9A.36.045;

10 (c) A violation of RCW 9A.56.300;

11 (d) A violation of RCW 9A.56.310;

12 (e) Any felony offense if the offender was armed with a firearm  
13 in the commission of the offense.

14 (11) "Firearm" means a weapon or device from which a projectile  
15 or projectiles may be fired by an explosive such as gunpowder.  
16 "Firearm" does not include a flare gun or other pyrotechnic visual  
17 distress signaling device, or a powder-actuated tool or other device  
18 designed solely to be used for construction purposes.

19 (12) "Gun" has the same meaning as firearm.

20 (13) "Law enforcement officer" includes a general authority  
21 Washington peace officer as defined in RCW 10.93.020, or a specially  
22 commissioned Washington peace officer as defined in RCW 10.93.020.  
23 "Law enforcement officer" also includes a limited authority  
24 Washington peace officer as defined in RCW 10.93.020 if such officer  
25 is duly authorized by his or her employer to carry a concealed  
26 pistol.

27 (14) "Lawful permanent resident" has the same meaning afforded a  
28 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
29 1101(a)(20).

30 (15) "Licensed collector" means a person who is federally  
31 licensed under 18 U.S.C. Sec. 923(b).

32 (16) "Licensed dealer" means a person who is federally licensed  
33 under 18 U.S.C. Sec. 923(a).

34 (17) "Loaded" means:

35 (a) There is a cartridge in the chamber of the firearm;

36 (b) Cartridges are in a clip that is locked in place in the  
37 firearm;

38 (c) There is a cartridge in the cylinder of the firearm, if the  
39 firearm is a revolver;

1 (d) There is a cartridge in the tube or magazine that is inserted  
2 in the action; or

3 (e) There is a ball in the barrel and the firearm is capped or  
4 primed if the firearm is a muzzle loader.

5 (18) "Machine gun" means any firearm known as a machine gun,  
6 mechanical rifle, submachine gun, or any other mechanism or  
7 instrument not requiring that the trigger be pressed for each shot  
8 and having a reservoir clip, disc, drum, belt, or other separable  
9 mechanical device for storing, carrying, or supplying ammunition  
10 which can be loaded into the firearm, mechanism, or instrument, and  
11 fired therefrom at the rate of five or more shots per second.

12 (19) "Nonimmigrant alien" means a person defined as such in 8  
13 U.S.C. Sec. 1101(a) (15).

14 (20) "Person" means any individual, corporation, company,  
15 association, firm, partnership, club, organization, society, joint  
16 stock company, or other legal entity.

17 (21) "Pistol" means any firearm with a barrel less than sixteen  
18 inches in length, or is designed to be held and fired by the use of a  
19 single hand.

20 (22) "Rifle" means a weapon designed or redesigned, made or  
21 remade, and intended to be fired from the shoulder and designed or  
22 redesigned, made or remade, and intended to use the energy of the  
23 explosive in a fixed metallic cartridge to fire only a single  
24 projectile through a rifled bore for each single pull of the trigger.

25 (23) "Sale" and "sell" mean the actual approval of the delivery  
26 of a firearm in consideration of payment or promise of payment.

27 (24) "Serious offense" means any of the following felonies or a  
28 felony attempt to commit any of the following felonies, as now  
29 existing or hereafter amended:

30 (a) Any crime of violence;

31 (b) Any felony violation of the uniform controlled substances  
32 act, chapter 69.50 RCW, that is classified as a class B felony or  
33 that has a maximum term of imprisonment of at least ten years;

34 (c) Child molestation in the second degree;

35 (d) Incest when committed against a child under age fourteen;

36 (e) Indecent liberties;

37 (f) Leading organized crime;

38 (g) Promoting prostitution in the first degree;

39 (h) Rape in the third degree;

40 (i) Drive-by shooting;

1 (j) Sexual exploitation;

2 (k) Vehicular assault, when caused by the operation or driving of  
3 a vehicle by a person while under the influence of intoxicating  
4 liquor or any drug or by the operation or driving of a vehicle in a  
5 reckless manner;

6 (l) Vehicular homicide, when proximately caused by the driving of  
7 any vehicle by any person while under the influence of intoxicating  
8 liquor or any drug as defined by RCW 46.61.502, or by the operation  
9 of any vehicle in a reckless manner;

10 (m) Any other class B felony offense with a finding of sexual  
11 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

12 (n) Any other felony with a deadly weapon verdict under RCW  
13 9.94A.825;

14 (o) Any felony offense in effect at any time prior to June 6,  
15 1996, that is comparable to a serious offense, or any federal or out-  
16 of-state conviction for an offense that under the laws of this state  
17 would be a felony classified as a serious offense; or

18 (p) Any felony conviction under RCW 9.41.115.

19 (25) "Short-barreled rifle" means a rifle having one or more  
20 barrels less than sixteen inches in length and any weapon made from a  
21 rifle by any means of modification if such modified weapon has an  
22 overall length of less than twenty-six inches.

23 (26) "Short-barreled shotgun" means a shotgun having one or more  
24 barrels less than eighteen inches in length and any weapon made from  
25 a shotgun by any means of modification if such modified weapon has an  
26 overall length of less than twenty-six inches.

27 (27) "Shotgun" means a weapon with one or more barrels, designed  
28 or redesigned, made or remade, and intended to be fired from the  
29 shoulder and designed or redesigned, made or remade, and intended to  
30 use the energy of the explosive in a fixed shotgun shell to fire  
31 through a smooth bore either a number of ball shot or a single  
32 projectile for each single pull of the trigger.

33 (28) "Transfer" means the intended delivery of a firearm to  
34 another person without consideration of payment or promise of payment  
35 including, but not limited to, gifts and loans. "Transfer" does not  
36 include the delivery of a firearm owned or leased by an entity  
37 licensed or qualified to do business in the state of Washington to,  
38 or return of such a firearm by, any of that entity's employees or  
39 agents, defined to include volunteers participating in an honor  
40 guard, for lawful purposes in the ordinary course of business.

1 (29) "Unlicensed person" means any person who is not a licensed  
2 dealer under this chapter.

3 (30) "Assemble" means to fit together the component parts of a  
4 firearm to construct a firearm.

5 (31) "Major component" means, with respect to a firearm, the  
6 slide or cylinder or the frame or receiver of the firearm, and in the  
7 case of a firearm that is not a pistol, includes the barrel of the  
8 firearm.

9 (32) "Manufacture" means the fabrication or construction of a  
10 firearm.

11 (33) "Undetectable firearm" means any firearm that does not  
12 contain sufficient metal to be reliably detectable by commonly used  
13 walk-through metal detectors or magnetometers, or any firearm that,  
14 if the firearm or any major component were subjected to inspection by  
15 the types of X-ray machines commonly used at airports, would not  
16 generate an image that accurately depicts the shape of the firearm or  
17 component. A firearm is per se undetectable if any major component is  
18 made of polymer plastic or other nonmetal material and the firearm  
19 does not contain at least 3.7 ounces of steel or steel alloy.

20 (34) "Untraceable firearm" means any firearm manufactured after  
21 July 1, 2019, for which the sale or distribution chain from a  
22 federally licensed dealer to the point of its first retail sale  
23 cannot be traced by law enforcement by means of a serial number  
24 registered with a federally licensed manufacturer imprinted on its  
25 major component.

26 NEW SECTION. Sec. 2. (1) No person may knowingly or recklessly  
27 allow, facilitate, aid, or abet the manufacture or assembly of an  
28 undetectable firearm or untraceable firearm: (a) Is ineligible under  
29 RCW 9.41.040 to possess a firearm; or (b) has signed a valid  
30 voluntary waiver of firearm rights that has not been revoked under  
31 RCW 9.41.350. For purposes of this provision, the failure to conduct  
32 a background check as provided in RCW 9.41.113 shall be prima facie  
33 evidence of recklessness.

34 (2) Any person violating this section is guilty of a gross  
35 misdemeanor punishable under chapter 9A.20 RCW. If a person  
36 previously has been found guilty under this section, then the person  
37 is guilty of a class C felony punishable under chapter 9A.20 RCW for  
38 each subsequent knowing violation of this section. A person is guilty

1 of a separate offense for each and every firearm to which this  
2 section applies.

3 **Sec. 3.** RCW 9.41.190 and 2018 c 7 s 3 are each amended to read  
4 as follows:

5 (1) Except as otherwise provided in this section, it is unlawful  
6 for any person to:

7 (a) Manufacture, own, buy, sell, loan, furnish, transport, or  
8 have in possession or under control, any machine gun, bump-fire  
9 stock, undetectable firearm, untraceable firearm, short-barreled  
10 shotgun, or short-barreled rifle;

11 (b) Manufacture, own, buy, sell, loan, furnish, transport, or  
12 have in possession or under control, any part designed and intended  
13 solely and exclusively for use in a machine gun, bump-fire stock,  
14 undetectable firearm, untraceable firearm, short-barreled shotgun, or  
15 short-barreled rifle, or in converting a weapon into a machine gun,  
16 short-barreled shotgun, or short-barreled rifle; or

17 (c) Assemble or repair any machine gun, bump-fire stock,  
18 undetectable firearm, untraceable firearm, short-barreled shotgun, or  
19 short-barreled rifle.

20 (2) It is not unlawful for a person to manufacture, own, buy,  
21 sell, loan, furnish, transport, assemble, or repair, or have in  
22 possession or under control, a short-barreled rifle, or any part  
23 designed or intended solely and exclusively for use in a short-  
24 barreled rifle or in converting a weapon into a short-barreled rifle,  
25 if the person is in compliance with applicable federal law.

26 (3) Subsection (1) of this section shall not apply to:

27 (a) Any peace officer in the discharge of official duty or  
28 traveling to or from official duty, or to any officer or member of  
29 the armed forces of the United States or the state of Washington in  
30 the discharge of official duty or traveling to or from official duty;  
31 or

32 (b) A person, including an employee of such person if the  
33 employee has undergone fingerprinting and a background check, who or  
34 which is exempt from or licensed under federal law, and engaged in  
35 the production, manufacture, repair, or testing of machine guns,  
36 bump-fire stocks, short-barreled shotguns, or short-barreled rifles:

37 (i) To be used or purchased by the armed forces of the United  
38 States;

1 (ii) To be used or purchased by federal, state, county, or  
2 municipal law enforcement agencies; or

3 (iii) For exportation in compliance with all applicable federal  
4 laws and regulations.

5 (4) It shall be an affirmative defense to a prosecution brought  
6 under this section that the machine gun or short-barreled shotgun was  
7 acquired prior to July 1, 1994, and is possessed in compliance with  
8 federal law.

9 (5) Any person violating this section is guilty of a class C  
10 felony.

11 **Sec. 4.** RCW 9.41.220 and 2018 c 7 s 4 are each amended to read  
12 as follows:

13 All machine guns, bump-fire stocks, undetectable firearms,  
14 untraceable firearms, short-barreled shotguns, or short-barreled  
15 rifles, or any part designed and intended solely and exclusively for  
16 use in a machine gun, short-barreled shotgun, or short-barreled  
17 rifle, or in converting a weapon into a machine gun, short-barreled  
18 shotgun, or short-barreled rifle, illegally held or illegally  
19 possessed are hereby declared to be contraband, and it shall be the  
20 duty of all peace officers, and/or any officer or member of the armed  
21 forces of the United States or the state of Washington, to seize said  
22 machine gun, bump-fire stock, undetectable firearm, untraceable  
23 firearm, short-barreled shotgun, or short-barreled rifle, or parts  
24 thereof, wherever and whenever found.

25 **Sec. 5.** RCW 9.41.225 and 2018 c 7 s 5 are each amended to read  
26 as follows:

27 (1) It is unlawful for a person, in the commission or furtherance  
28 of a felony other than a violation of RCW 9.41.190, to discharge a  
29 machine gun or to menace or threaten with a machine gun, another  
30 person.

31 (2) It is unlawful for a person, in the commission or furtherance  
32 of a felony other than a violation of RCW 9.41.190, to discharge a  
33 firearm containing a bump-fire stock or to menace or threaten another  
34 person with a firearm containing a bump-fire stock.

35 (3) It is unlawful for a person, in the commission or furtherance  
36 of a felony other than a violation of RCW 9.41.190, to discharge a  
37 firearm or to menace or threaten another person with a firearm if  
38 that firearm is an undetectable firearm or an untraceable firearm.

1        (4) A violation of this section shall be punished as a class A  
2 felony under chapter 9A.20 RCW.

3        NEW SECTION.    **Sec. 6.**    Sections 3 through 5 of this act are  
4 necessary for the immediate preservation of the public peace, health,  
5 or safety, or support of the state government and its existing public  
6 institutions, and take effect July 1, 2019.

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