

LFC Requester: Marty Daly

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date 02 FEB 24
Bill No: HB 137s

Sponsor: Andrea Romero, Linda Serrato, Patricia Roybal
Caballero, Charlotte Little
Short Title:

Agency Name and Code 790-Department of Public Safety
Number:
Person Writing Dale R. Wagoner
Phone: 505-629- Email Dale.wagoner@dps.n

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY24 | FY25 | | |
| 0.0 | 0.0 | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY24 | FY25 | FY26 | | |
| 0.0 | 0.0 | 0.0 | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|--------------------|--------------------|----------------------------------|--------------------------------------|--------------------------|
| Total | | \$5.5 per event | \$5.5 per event | \$5.5 per event | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This substitute bill adds an appeals process for exclusion from the list of regulated firearms; deleting a July 1, 2024, sunset on the legal transfer of large-capacity feeding devices manufactured before July 1, 2024; and, subject to certification, adds to the list of allowable transfers a gas-operated semi-automatic firearm that was lawfully possessed before January 1, 2025. As proposed, this substitute allows owners, and manufacturers of semi-automatic firearms 60 days to seek removal of an excluded firearm from the list.

This bill follows proposed federal legislation designed to decrease instances and severity of gun violence by outlawing on the state level semi-automatic assault weapons, large-capacity magazine clips containing more than 10 rounds for handguns, rifles, and shotguns, and devices commonly referred to as “bump-stocks” which increase the rate of fire effectively allowing semi-automatic firearms to fire at the same rate as a fully automatic machine gun.

The bill keeps in place current laws allowing for the lawful possession of popular firearms, including shotguns and semi-automatic handguns subject to certain ammunition capacity limitations. The bill creates exemptions for the United States government and its departments and agencies, Indian nations, pueblos, and tribes, the state, or any agency or political subdivisions thereof. The sanction for a violation is a misdemeanor.

Notably, the bill would allow for individuals to retain possession of firearms otherwise excluded under the bill while on their own private property, on another’s private property not open to the public and with the property owner’s permission, on the premises of a licensed firearms dealer, engaged in the legal use of the firearm at a licensed firing range or shooting competition, or while traveling with the unloaded firearm enclosed in a container so long as the firearm was lawfully manufactured and transferred prior to January 1, 2025, and confidentially certified with the Attorney General on a system developed by the AG, in consultation with DPS. In addition, no later than December 1, 2024, the AG in consultation with DPS, shall identify and publish on the AG’s website a list of gas-operated semiautomatic firearms subject to exclusion in accordance with the definitions contained within the Section 3 of the bill.

Subject to certain exemptions and beginning on July 1, 2024, the bill would outlaw the import,

sale, manufacture, transfer, or receipt of machine guns, machine gun attachments, and large-capacity ammunition feeding devices, defined as having an overall capacity to accept more than 10 rounds.

The bill allows for non-residents to transport by vehicle within the state any unloaded firearm, device, or combination of parts of a regulated firearm under the bill over a twenty-four-hour period so long as the firearm or device or parts thereof are stored and not readily accessible from the passenger compartment. Non-residents who move to the state in possession of a firearm, device, or parts described in the bill shall have sixty days to comply with the state requirements, including completing and submitting a certification with the AG.

FISCAL IMPLICATIONS

DPS may incur additional expenses in providing extra security personnel to the courts depending on threats that may be made at an estimated cost of \$5,500 per event.

SIGNIFICANT ISSUES

Assault weapons are generally high-powered semiautomatic firearms where each round has up to four times the muzzle velocity of a handgun round. This means that each round from an assault weapon inflicts greater damage to the human body than a round from a typical handgun. Moreover, semiautomatic weapons can load and fire subsequent rounds much faster than manually operated firearms. When combined with high-capacity magazines, they allow a shooter to fire more rounds over a short period without pausing to reload.

Assault weapons and high-capacity magazines are frequently used in the violence that plagues our nation. From 2015 to 2022, mass shootings with four or more people killed where an assault weapon was used resulted in nearly six times as many people shot, more than twice as many people killed, and 23 times as many people wounded on average compared to those that did not involve the use of one. New Mexico has also been victim to these mass shootings. For example, in May of 2023, an 18-year-old man used an assault rifle to shoot more than 100 rounds in Farmington—killing three people and injuring six others.

Research shows a prohibition on assault weapons can prevent mass shooting fatalities and active shooter events. A study found that the federal prohibition on assault weapons and high-capacity magazines was associated with a significant decrease in public mass shootings and related casualties, preventing at least 11 public mass shootings during the 10 years it was in effect. The researchers also estimated that had the law remained in effect from 2005 through 2019, it would have prevented 30 mass shootings that resulted in the death of 339 people and wounded 1,139 more. See Lori Post, et al, *Impact of Firearm Surveillance on Gun Control Policy: Regression Discontinuity Analysis*, JMIR Public Health Surveill. (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8103291/>.

By focusing on particularly dangerous weapons, this bill does not run afoul of the Second Amendment. Notably, the Seventh Circuit Court of Appeals recently analyzed a similar bill passed by the State of Illinois and concluded that it has a “strong likelihood” of being found constitutional. See *Bevis v. City of Naperville, Illinois*, 85 F.4th 1175 (7th Cir. 2023). Further, the United States Supreme Court declined to preliminarily enjoin this law—suggesting that the Court agreed with the Seventh Circuit’s conclusion.

PERFORMANCE IMPLICATIONS

As the state's flagship public safety agency, DPS would play a significant role in the implementation of the bill including requiring acknowledgement by firearm dealers prior to the sale of firearms otherwise allowed under the bill the published list of regulated firearms and devices.

ADMINISTRATIVE IMPLICATIONS

The bill requires DPS to consult and advise the Attorney General on various aspects of the bill relating to the creation and maintenance of a list of regulated firearms, the manner of marking large capacity magazines, and the certification of certain regulated firearms.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship issues to DPS

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.