

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 55  
3 entitled “An act relating to the disposition of unlawful and abandoned  
4 firearms” respectfully reports that it has considered the same and recommends  
5 that the House propose to the Senate that the bill be amended by striking out all  
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 20 V.S.A. § 2301 is amended to read:

8 § 2301. APPLICABILITY OF CHAPTER

9 Notwithstanding any other provisions of law relating to the retention and  
10 disposition of evidence or lost, unclaimed, or abandoned property, the  
11 provisions of this chapter shall govern the retention or disposition, or both, of  
12 unlawful firearms, ~~as defined in section 2302 of this title,~~ in the possession of  
13 any agency, ~~as defined in section 2302~~ and the disposition of abandoned  
14 firearms in the possession of the Department of Public Safety.

15 Sec. 2. 20 V.S.A. § 2302 is amended to read:

16 § 2302. UNLAWFUL FIREARMS; AGENCY

17 ~~(a) For purposes of~~ As used in this chapter,;

18 (1) ~~“unlawful~~ Unlawful firearms” means firearms the possession of  
19 which constitutes a violation of federal or ~~state~~ State law and firearms carried  
20 or used in violation of any federal or ~~state~~ State law or in the commission of  
21 any federal or ~~state~~ State felony.

1       ~~(b) For purposes of this chapter, “agency”~~ (2) “Agency” means any state  
2       State or local law enforcement agency, any state agency except the Vermont  
3       ~~fish and wildlife department~~ Department of Fish and Wildlife, and any local  
4       government entity.

5       (3) “Unlawful per se” means firearms the possession of which is  
6       unlawful under any circumstances under State or federal law.

7       (4) “Abandoned firearms” means firearms in the possession of the  
8       Department of Public Safety that are no longer needed as evidence and remain  
9       unclaimed for more than 18 months from the date the firearms come into the  
10       Department’s possession.

11       Sec. 3. 20 V.S.A. § 2305 is amended to read:

12       § 2305. DISPOSITION OF UNLAWFUL FIREARMS

13       (a) Any ~~unlawful firearm which the commissioner of public safety~~  
14       ~~determines to be unsafe~~ or the possession of which is unlawful per se shall  
15       either be destroyed, or if the ~~commissioner of public safety~~ Commissioner of  
16       Public Safety deems ~~such to be~~ it appropriate, retained by the ~~department of~~  
17       ~~public safety~~ Department of Public Safety for purposes of forensic science  
18       reference. In no event shall the ~~commissioner of public safety~~ Commissioner  
19       of Public Safety dispose of such ~~an unlawful~~ a firearm in any other manner or  
20       to any other person.

1           (b)(1) Except as provided in section 2306 of this title, all ~~other~~ unlawful  
2 and abandoned firearms shall either be:

3                   (A) delivered to the ~~state treasurer~~ Commissioner of Buildings and  
4 General Services as directed by him or her for ~~disposition by public sale~~  
5 ~~pursuant to the provisions of chapter 13 of Title 27, or by such other manner of~~  
6 ~~sale deemed appropriate by the state treasurer, or~~ sale to a federally licensed  
7 firearms dealer pursuant to the Commissioner's authority under Title 29;

8                   (B) at the discretion of the ~~state treasurer~~ Commissioner of Buildings  
9 and General Services, ~~donated to a governmental agency or to a nonprofit~~  
10 ~~organization upon the recommendation of the commissioner of fish and~~  
11 ~~wildlife,~~ transferred to the Commissioner of Fish and Wildlife for  
12 disposition; or;

13                   (C) if the ~~commissioner of public safety~~ Commissioner of Public  
14 Safety deems ~~such to be~~ it appropriate, retained by the ~~department of public~~  
15 ~~safety~~ Department of Public Safety for purposes of forensic science reference.

16           (2) Notwithstanding ~~the foregoing provision~~ subdivision (1) of this  
17 subsection, an unlawful firearm used in the commission of a homicide shall not  
18 be delivered to the ~~state treasurer for disposition by public sale~~ Commissioner  
19 of Buildings and General Services, but shall be disposed of only in accordance  
20 with:

1           (A) the provisions of subsection (a) of this section in the same  
2 manner as unlawful per se firearms; or

3           (B) section 2306 of this title.

4           (c) When the firearms sold under this section have been delivered ~~to the~~  
5 ~~commissioner of public safety~~ by a local law enforcement agency, the ~~state~~  
6 ~~treasurer~~ Commissioner of Buildings and General Services shall return two-  
7 thirds of the net proceeds from the sale to the appropriate municipality. The  
8 remaining proceeds shall be allocated pursuant to the authority of the  
9 Commissioner of Buildings and General Services under 29 V.S.A. § 1557.

10 Proceeds allocated to a municipality under this subsection shall, to the extent  
11 needed by the municipality, be used to offset the costs of storing non-  
12 evidentiary firearms.

13           (d) No State agency or department or State official shall be subject to any  
14 civil, criminal, administrative, or regulatory liability for any act taken or  
15 omission made in reliance on the provisions of this chapter.

16 Sec. 4. 20 V.S.A. § 2306 is amended to read:

17 § 2306. RIGHTS OF INNOCENT OWNER

18           Nothing contained in subsection 2305(b) of this title shall prejudice the  
19 rights of the bona fide owner of any unlawful firearm, the disposition of which  
20 is governed by that subsection, upon affirmative proof by him or her that he or  
21 she had no express or implied knowledge that such unlawful firearm was being

1 or intended to be used illegally or for illegal purposes. If the bona fide owner  
2 provides reasonable and satisfactory proof of his or her ownership and of his or  
3 her lack of express or implied knowledge to the ~~commissioner of public safety~~  
4 Commissioner of Public Safety, the unlawful firearm shall be returned to him  
5 or her. If the ~~commissioner of public safety~~ Commissioner of Public Safety  
6 determines that the proof offered is not satisfactory or reasonable, the person  
7 may, within 14 days, request a hearing before the ~~state treasurer~~ Commissioner  
8 of Buildings and General Services and the ~~commissioner of public safety~~  
9 Commissioner of Public Safety, jointly. The ~~state treasurer~~ Commissioner of  
10 Buildings and General Services and the ~~commissioner of public safety~~  
11 Commissioner of Public Safety shall promptly hold a hearing on any claim  
12 filed under this section, in accordance with the provisions for contested cases  
13 in 3 V.S.A. chapter 25 of Title 3.

14 Sec. 5. 20 V.S.A. § 2307 is amended to read:

15 § 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM

16 ABUSE ORDER; STORAGE; FEES; RETURN

17 \* \* \*

18 (2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or  
19 weapon and pay the applicable storage fee within 90 days of the court order  
20 releasing the items, the firearm, ammunition, or weapon may be sold for fair  
21 market value. Title to the items shall pass to the law enforcement agency or

1 firearms dealer for the purpose of transferring ownership, except that the  
2 Vermont State Police shall follow the procedure described in section 2305 of  
3 this title.

4 \* \* \*

5 Sec. 6. 13 V.S.A. § 4019 is added to read:

6 § 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

7 (a) As used in this section:

8 (1) “Firearm” shall have the same meaning as in ~~subdivision 4016(a)(3)~~  
9 subsection 4017(d) of this title.

10 (2) “Immediate family member” means a spouse, parent, stepparent,  
11 child, stepchild, sibling, stepsibling, grandparent, ~~stepgrandparent,~~ grandchild,  
12 ~~stepgrandchild, greatgrandparent, stepgreatgrandparent, greatgrandchild, and~~  
13 ~~stepgreatgrandchild.~~

14 (3) “Law enforcement officer” shall have the same meaning as in  
15 subdivision 4016(a)(4) of this title.

16 (4) “Licensed dealer” means a person issued a license as a dealer in  
17 firearms pursuant to 18 U.S.C. § 923(a).

18 (5) “Proposed transferee” means an unlicensed person to whom a  
19 proposed transferor intends to transfer a firearm.

20 (6) “Proposed transferor” means an unlicensed person who intends to  
21 transfer a firearm to another unlicensed person.

1           (7) “Transfer” means to transfer ownership of a firearm by means of  
2           sale, trade, or gift.

3           (8) “Unlicensed person” means a person who has not been issued a  
4           license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C.  
5           § 923(a).

6           (b)(1) Except as provided in subsection (e) of this section, an unlicensed  
7           person shall not transfer a firearm to another unlicensed person unless:

8                   (A) the proposed transferor and the proposed transferee physically  
9                   appear together with the firearm before a licensed dealer and request that the  
10                   licensed dealer facilitate the transfer; and

11                   (B) the licensed dealer agrees to facilitate the transfer and determines  
12                   that the proposed transferee is not prohibited by State or federal law from  
13                   purchasing or possessing the firearm.

14           (2) A person shall not, in connection with the transfer or attempted  
15           transfer of a firearm pursuant to this section, knowingly make a false statement  
16           or exhibit a false identification intended to deceive a licensed dealer with  
17           respect to any fact material to the transfer.

18           (c)(1) A licensed dealer who agrees to facilitate a firearm transfer pursuant  
19           to this section shall comply with all requirements of State and federal law and  
20           shall, unless otherwise expressly provided in this section, conduct the transfer

1 in the same manner as the licensed dealer would if selling the firearm from his  
2 or her own inventory, but shall not be considered a vendor.

3 (2) A licensed dealer shall return the firearm to the proposed transferor  
4 and decline to continue facilitating the transfer if the licensed dealer  
5 determines that the proposed transferee is prohibited by federal or State law  
6 from purchasing or possessing the firearm.

7 (3) A licensed dealer may charge a reasonable fee to facilitate the  
8 transfer of a firearm between a proposed transferor and a proposed transferee  
9 pursuant to this section.

10 (d)(1) An unlicensed person who transfers a firearm to another unlicensed  
11 person in violation of subdivision (b)(1) of this section shall be imprisoned not  
12 more than one year or fined not more than \$500.00, or both.

13 (2) A person who violates subdivision (b)(2) of this section shall be  
14 imprisoned not more than one year or fined not more than \$500.00, or both.

15 (e) This section shall not apply to:

16 (1) the transfer of a firearm by or to a law enforcement agency;

17 (2) the transfer of a firearm by or to a law enforcement officer or  
18 member of the U.S. Armed Forces acting within the course of his or her  
19 official duties;

20 (3) the transfer of a firearm from one immediate family member to  
21 another immediate family member; or



1           (4) a person who transfers the firearm to another person in order to  
2           prevent imminent harm to any person, provided that this subdivision shall only  
3           apply while the risk of imminent harm exists.

4           (f) A licensed dealer who facilitates a firearm transfer pursuant to this  
5           section shall be immune from any civil or criminal liability for any actions  
6           taken or omissions made when facilitating the transfer in reliance on the  
7           provisions of this section. This subsection shall not apply to reckless or  
8           intentional misconduct by a licensed dealer.

9           Sec. 7. 13 V.S.A. § 4020 is added to read

10          § 4020. SALE OF FIREARMS TO MINORS PERSONS UNDER 21 YEARS  
11          OF AGE PROHIBITED

12          (a) A person shall not sell a firearm to a person under 21 years of age. A  
13          person who violates this subsection shall be imprisoned for not more than one  
14          year or fined not more than \$1,000.00, or both.

15          (b) This section shall not apply to:

16                (1) a law enforcement officer purchasing the firearm for purposes of his  
17                or her duties and responsibilities as a law enforcement officer;

18                (2) an active or veteran member of the Vermont National Guard, of the  
19                National Guard of another state, or of the U.S. Armed Forces purchasing the  
20                firearm for purposes of his or her duties and responsibilities as a member of the  
21                armed forces;

1           (3) a person who provides the seller with a certificate of satisfactory  
2 completion of a Vermont hunter safety course or an equivalent hunter safety  
3 course which is approved by the Commissioner; or

4           (4) a person who provides the seller with a certificate of satisfactory  
5 completion of a hunter safety course in another state or a province of Canada  
6 which is approved by the Commissioner.

7           (c) As used in this section:

8           (1) "Firearm" shall have the same meaning as in subsection 4017(d)  
9 of this title.

10           (2) "Law enforcement officer" shall have the same meaning as in  
11 subsection 4016(a) of this title.

12           (3) "Commissioner" means the Commissioner of Fish and Wildlife.

13           Sec. 8. 13 V.S.A. § 4021 is added 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" shall 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 act.

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

3       **(c)(1) The prohibition on possession of large capacity ammunition feeding**  
4       **devices established by subsection (a) of this section shall not apply to a large**  
5       **capacity ammunition feeding device lawfully possessed on or before the**  
6       **effective date of this act.**

7       **(2) The prohibition on possession, transfer, sale, and purchase of large**  
8       **capacity ammunition feeding devices established by subsection (a) of this**  
9       **section shall not apply to a large capacity ammunition feeding device lawfully**  
10       **possessed by a licensed dealer as defined in subdivision 4019(a)(4) of this title**  
11       **prior to the effective date of this act and transferred by the dealer on or before**  
12       **October 1, 2018.**

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

15       **(A) manufactured for, transferred to, or possessed by the United**  
16       **States or a department or agency of the United States, or by any state or by a**  
17       **department, agency, or political subdivision of a state;**

18       **(B) transferred to or possessed by a federal law enforcement officer**  
19       **or a law enforcement officer certified as a law enforcement officer by the**  
20       **Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for**  
21       **legitimate law enforcement purposes, whether the officer is on or off duty;**

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

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

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

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

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

16 or

17           (iii) for transfer in foreign or domestic commerce for delivery and  
18 possession outside the State of Vermont; or

19           (F) transported by a resident of another state into this State for the  
20 exclusive purpose of use in an established shooting competition if the device is  
21 lawfully possessed under the laws of another state.

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(2) This section shall not apply to a licensed dealer as defined in subdivision 4019(a)(4) of this title for the sole purpose of transferring or selling a large capacity ammunition feeding device to a person to whom this section does not apply under subdivision (1) of this subsection (d).

(e)(1) As used in this section, “large capacity ammunition feeding device” means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept:

(A) more than 10 rounds of ammunition for a long gun; or

(B) more than 15 rounds of ammunition for a hand gun.

(2) The term “large capacity ammunition feeding device” shall not include:

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

(B) a large capacity ammunition feeding device that is manufactured or sold solely for use by a lever action or bolt action long gun or by an antique firearm as defined in subdivisions 4017(d)(2)(A) and (B) of this title; or

(C) a large capacity ammunition feeding device that is manufactured or sold solely for use with a firearm that is determined to be a curio or relic by the Bureau of Alcohol, Tobacco, Firearms and Explosives. As used in this subdivision, “curio or relic” means a firearm that is of special interest to

1 collectors by reason of some quality other than its association with firearms  
2 intended for sporting use or as offensive or defensive weapons.

3 Sec. 9. 13 V.S.A. § 4023 is added to read

4 § 4023. BUMP-FIRE STOCKS; POSSESSION PROHIBITED

5 (a) As used in this section, “bump-fire stock” means a butt stock designed  
6 to be attached to a semiautomatic firearm and intended to increase the rate of  
7 fire achievable with the firearm to that of a fully automatic firearm by using  
8 the energy from the recoil of the firearm to generate a reciprocating action that  
9 facilitates the repeated activation of the trigger.

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

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

16 Sec. 9a. REPEAL

17 13 V.S.A. § 4021(d)(1)(F) shall be repealed on July 1, 2019.

18 Sec. 10. REPORT; BACKGROUND CHECKS ON PRIVATE FIREARM

19 SALES

20 On or before December 15, 2018, the Department of Public Safety, the  
21 Executive Director of the Department of Sheriffs and State’s Attorneys, and

1 the Vermont Association of Chiefs of Police shall submit to the House and  
2 Senate Committees on Judiciary a review of current practices and additional  
3 options for conducting background checks on private firearms sales. The report  
4 shall include consideration of whether a person should be able to obtain a  
5 background check from a law enforcement agency when purchasing the  
6 firearm. The report shall analyze the cost and efficiency of obtaining the  
7 background check from the law enforcement agency rather than the dealer, and  
8 shall include a recommendation as to whether such an option should be created  
9 by the General Assembly.

10 Sec. 11. EFFECTIVE DATE

11 (a) This section and Secs. 1-8 and 9a shall take effect on passage.

12 (b) Sec. 9 (bump stocks) shall take effect on October 1, 2018.

13  
14  
15 (Committee vote: \_\_\_\_\_)

16 \_\_\_\_\_

17 Representative \_\_\_\_\_

18 FOR THE COMMITTEE