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S.329

An act relating to criminal procedures involving firearms

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

Sec. 1. 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.

1 (B) “Firearm” ~~shall~~ does not include an antique firearm.

2 (2) “Antique firearm” means:

3 (A) Any firearm (including any firearm with a matchlock, flintlock,
4 percussion cap, or similar type of ignition system) manufactured in or before
5 1898.

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

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

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

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

21 (3) “Violent crime” means:

1 (A)(i) A listed crime as defined in subdivision 5301(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
9 23 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, relating
15 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 the
15 person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
16 § 921(a)(20).

17 Sec. 2. 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 of
14 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 or a patient in need of further treatment pursuant to section 4822 of this title
17 and:

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

20 (II) incompetent to stand trial for a violent crime as defined in
21 section 4017 of this title; or

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

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

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

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

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

12 (c) As used in this section:

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

14 (2) “Fugitive from justice” means a person who has fled:

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

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

18 Sec. 3. 13 V.S.A. § 4019a is amended to read:

19 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

20 (a)(1) A person shall not transfer a firearm to another person until 72 hours
21 after the licensed dealer facilitating the transfer is provided with a unique

1 identification number for the transfer by the National Instant Criminal
2 Background Check System (NICS) or seven business days have elapsed since
3 the dealer contacted NICS to initiate the background check, whichever occurs
4 first.

5 (2) If a firearm is transferred by mail, the 72-hour waiting period
6 required by subdivision (1) of this subsection shall commence when the order
7 is placed. This subdivision shall not apply unless the transferee provides the
8 licensed dealer facilitating the transfer with a receipt and documentation of a
9 verified tracking number indicating the date the firearm was purchased and
10 mailed. If the transferee fails to provide a receipt and documentation of a
11 verified tracking number that satisfactorily indicates the purchase and mailing
12 dates to the dealer, the dealer shall refuse to transfer the firearm to the
13 transferee until completion of the waiting period required by subdivision (1) of
14 this subsection.

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

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

20 (d) As used in this section, “firearm” has the same meaning as in
21 subsection 4017(d) of this title.

1 (e) [Repealed.]

2 (f) This section shall not apply to the return of a firearm, frame, or receiver
3 to a person by a licensed dealer after the dealer has serialized it pursuant to
4 federal law or section 4084 of this title if the dealer returns the firearm, frame,
5 or receiver to the same person from whom it was received.

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

7 § 4022. BUMP-FIRE STOCKS; MACHINE GUNS; POSSESSION

8 PROHIBITED

9 (a) As used in this section;

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

15 (2) “Machine gun” means any weapon that shoots, is designed to shoot,
16 or can be readily restored to shoot automatically more than one shot without
17 manual reloading, by a single function of the trigger. The term also includes
18 the frame or receiver of any such weapon; any part designed and intended
19 solely and exclusively, or combination of parts designed and intended, for use
20 in converting a weapon into a machine gun; and any combination of parts from
21 which a machine gun can be assembled if the parts are in the possession or

1 under the control of a person. The term does not include any weapon or other
2 item that is registered in the National Firearms Registration and Transfer
3 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and
4 Explosives, or that is otherwise not subject to that registration requirement.

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

8 (c) The Department of Public Safety shall develop, promote, and execute a
9 collection process that permits persons to voluntarily and anonymously
10 relinquish bump-fire stocks prior to ~~the effective date of this section~~ October 1,
11 2018.

12 Sec. 5. 13 V.S.A. § 4028 is added to read:

13 § 4028. POSSESSION OF FIREARMS PROHIBITED ON PREMISES

14 LICENSED TO SERVE ALCOHOL

15 (a) A person shall not knowingly possess a firearm on premises where
16 alcohol is licensed to be served.

17 (b) A person who violates this section shall be imprisoned for not more
18 than one year or fined not more than \$1,000.00, or both.

19 (c) This section shall not apply to:

20 (1)(A) a second-class licensed premises, including a premises used for a
21 retail alcoholic beverage tasting permit;

1 (B) sidewalks or public highways that pass through an outside
2 premises for which a licensee holds an outside consumption permit;

3 (C) the premises for which a licensee holds a limited event permit,
4 special event permit, or special event serving permit; or

5 (D) a dining car for which a licensee holds a promotional railroad
6 tasting permit; or

7 (2) a firearm possessed by:

8 (A) a federal law enforcement officer or a law enforcement officer
9 certified as a law enforcement officer by the Vermont Criminal Justice Council
10 pursuant to 20 V.S.A. § 2358 for legitimate law enforcement purposes;

11 (B) a law enforcement officer of another state who is authorized to
12 carry a firearm by the officer's state or local law enforcement agency and is
13 carrying the firearm for legitimate law enforcement purposes;

14 (C) a member of the Vermont National Guard, of the National Guard
15 of another state, or of the U.S. Armed Forces who is on duty and acting under
16 state or federal orders;

17 (D) any government officer, agent, or employee authorized to carry a
18 weapon and acting within the scope of that person's duties; or

19 (E) the holder of the license for the premises, provided that person is
20 not prohibited from possessing a firearm under state or federal law.

