

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 329
3 entitled “An act relating to criminal procedures involving firearms”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 ~~§ 2501. GRAND LARCENY~~

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

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

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

19 ~~(b) As used in this section, “firearm” has the same meaning as in section~~
20 ~~4017 of this title.~~

21 Sec. 1. 13 V.S.A. § 4017 is amended to read:

1 § 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;
2 CONVICTION OF VIOLENT CRIME

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

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

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

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

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

12 (d) As used in this section:

13 (1)(A) “Firearm” means:

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

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

17 (iii) any firearm muffler or firearm silencer.

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

19 (2) “Antique firearm” means:

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

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

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

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

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

19 (3) “Violent crime” means:

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

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

3 (II) recklessly endangering another person as defined in section
4 1025 of this title;

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

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

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

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

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

17 (B) An offense involving sexual exploitation of children in violation
18 of chapter 64 of this title; or a comparable offense and sentence in another
19 jurisdiction if the offense prohibits the person from possessing a firearm under
20 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

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

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

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

16 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
17 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
18 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
19 POSSESSION OF FIREARMS

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

21 (1) is a fugitive from justice;

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

3 (3) is the subject of a final order against stalking issued pursuant to
4 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

5 ~~or~~

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

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

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

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

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

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

18 (II) incompetent to stand trial for an offense listed in
19 subdivision (4) of this subsection (a) a violent crime as defined in section 4017
20 of this title; or

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

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

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

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

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

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

15 (c) As used in this section:

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

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

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

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

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

1 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

2 (a)(1) A person shall not transfer a firearm to another person until 72 hours
3 after the licensed dealer facilitating the transfer is provided with a unique
4 identification number for the transfer by the National Instant Criminal
5 Background Check System (NICS) or seven business days have elapsed since
6 the dealer contacted NICS to initiate the background check, whichever occurs
7 first.

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

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

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

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

3 (e) [Repealed.]

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

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

9 § 4022. BUMP-FIRE STOCKS; MACHINE GUNS; POSSESSION

10 PROHIBITED

11 (a) As used in this section;

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

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

1 in converting a weapon into a machine gun; and any combination of parts from
2 which a machine gun can be assembled if the parts are in the possession or
3 under the control of a person. The term does not include any weapon or other
4 item that is registered in the National Firearms Registration and Transfer
5 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and
6 Explosives, or that is otherwise not subject to that registration requirement.

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

10 (c) The Department of Public Safety shall develop, promote, and execute a
11 collection process that permits persons to voluntarily and anonymously
12 relinquish bump-fire stocks prior to ~~the effective date of this section~~ October 1,
13 2018.

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

15 § 4028. POSSESSION OF FIREARMS PROHIBITED ON PREMISES

16 LICENSED TO SERVE ALCOHOL

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

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

21 (c) This section shall not apply to:

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

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

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

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

9 (2) a firearm possessed by:

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

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

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

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

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

3 (d) The owner or operator of a premises where alcohol is licensed to be
4 served shall cause notice of the provisions of this section to be posted
5 conspicuously at each public entrance to the premises.

6 (e) As used in this section, “firearm” has the same meaning as in subsection
7 4017(d) of this title.

8 **Sec. 6. 13 V.S.A. § 4824 is amended to read:**

9 **§ 4824. REPORTING; NATIONAL INSTANT CRIMINAL**

10 **BACKGROUND CHECK SYSTEM**

11 **(a) If the court finds that a person is a person in need of treatment or a**
12 **patient in need of further treatment pursuant to section 4822 of this title, the**
13 **Court Administrator shall within 48 hours report the name of the person**
14 **subject to the order to the National Instant Criminal Background Check**
15 **System, established by Section 103 of the Brady Handgun Violence Prevention**
16 **Act of 1993. The report shall include only information sufficient to identify the**
17 **person, the reason for the report, and a statement that the report is made in**
18 **accordance with 18 U.S.C. § 922(g)(4).**

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20 **Sec. 7. EFFECTIVE DATE**

21 This act shall take effect on passage.

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE