

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. § 4017 is amended to read:

8 § 4017. PERSONS PROHIBITED FROM POSSESSING FIREARMS;

9 CONVICTION OF VIOLENT CRIME

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

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

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

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

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

19 (d) As used in this section:

20 (1)(A) “Firearm” means:

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

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

4 (iii) any firearm muffler or firearm silencer.

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

6 (2) “Antique firearm” means:

7 (A) Any firearm (including any firearm with a matchlock, flintlock,
8 percussion cap, or similar type of ignition system) manufactured in or before
9 1898.

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

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

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

17 (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle
18 loading pistol that is designed to use black powder or a black powder substitute
19 and that cannot use fixed ammunition. As used in this subdivision (C),

20 “antique firearm” ~~shall~~ does not include a weapon that incorporates a firearm
21 frame or receiver, a firearm that is converted into a muzzle loading weapon, or

1 any muzzle loading weapon that can be readily converted to fire fixed
2 ammunition by replacing the barrel, bolt, breechblock, or any combination
3 thereof.

4 (3) “Violent crime” means:

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

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

9 (II) recklessly endangering another person as defined in section
10 1025 of this title;

11 (III) operating a vehicle under the influence of alcohol or other
12 substance with either death or serious bodily injury resulting as defined in
13 23 V.S.A. § 1210(f) and (g);

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

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

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

1 (ii) a comparable offense and sentence in another jurisdiction if
2 the offense prohibits the person from possessing a firearm under 18 U.S.C.
3 § 922(g)(1) or 18 U.S.C. § 921(a)(20).

4 (B) An offense involving sexual exploitation of children in violation
5 of chapter 64 of this title; or a comparable offense and sentence in another
6 jurisdiction if the offense prohibits the person from possessing a firearm under
7 18 U.S.C. § 922(g)(1) or 18 U.S.C. § 921(a)(20).

8 (C) A violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) (selling,
9 ~~dispensing~~, or trafficking cocaine); 4232(b)(2) or (b)(3) (selling ~~or dispensing~~
10 LSD); 4233(b)(2), (b)(3), or (c) (selling, ~~dispensing~~, or trafficking heroin);
11 4234(b)(2) or (b)(3) (selling ~~or dispensing~~ depressants, stimulants, and
12 narcotics); 4234a(b)(2), (b)(3), or (c) (selling, ~~dispensing~~, or trafficking
13 methamphetamine); 4235(c)(2) or (c)(3) (selling ~~or dispensing~~ hallucinogenic
14 drugs); 4235a(b)(2) or (b)(3) (selling ~~or dispensing~~ Ecstasy), or a comparable
15 offense and sentence in another jurisdiction if the offense prohibits the person
16 from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
17 § 921(a)(20).

18 (D) A conviction of possession with intent to distribute a controlled
19 substance other than cannabis in another jurisdiction if the offense prohibits the
20 person from possessing a firearm under 18 U.S.C. § 922(g)(1) or 18 U.S.C.
21 § 921(a)(20).

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

2 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL
3 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS
4 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON
5 POSSESSION OF FIREARMS

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

7 (1) is a fugitive from justice;

8 (2) is the subject of a final relief from abuse order issued pursuant to
9 15 V.S.A. § 1103;

10 (3) is the subject of a final order against stalking issued pursuant to
11 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

12 ~~or~~

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

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

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

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

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

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

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

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

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

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

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

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

19 (c) As used in this section:

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

21 (2) “Fugitive from justice” means a person who has fled;

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

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

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

5 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

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

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

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

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

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

8 (e) [Repealed.]

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

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

14 § 4022. BUMP-FIRE STOCKS; MACHINE GUNS; POSSESSION
15 PROHIBITED

16 (a) As used in this section:

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

1 (2) “Machine gun” means any weapon that shoots, is designed to shoot,
2 or can be readily restored to shoot automatically more than one shot without
3 manual reloading, by a single function of the trigger. The term also includes
4 the frame or receiver of any such weapon; any part designed and intended
5 solely and exclusively, or combination of parts designed and intended, for use
6 in converting a weapon into a machine gun; and any combination of parts from
7 which a machine gun can be assembled if the parts are in the possession or
8 under the control of a person. The term does not include any weapon or other
9 item that is registered in the National Firearms Registration and Transfer
10 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and
11 Explosives, or that is otherwise not subject to that registration requirement.

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

15 (c) The Department of Public Safety shall develop, promote, and execute a
16 collection process that permits persons to voluntarily and anonymously
17 relinquish bump-fire stocks prior to ~~the effective date of this section~~ October 1,
18 2018.

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

20 § 4028. POSSESSION OF FIREARMS PROHIBITED ON PREMISES

21 LICENSED TO SERVE ALCOHOL

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

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

5 (c) This section shall not apply to:

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

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

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

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

14 (2) a firearm possessed by:

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

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

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

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

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

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

11 (e) As used in this section, “firearm” has the same meaning as in subsection
12 4017(d) of this title.

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

14 § 4824. REPORTING; NATIONAL INSTANT CRIMINAL
15 BACKGROUND CHECK SYSTEM

16 (a) If the court finds that a person is a person in need of treatment or a
17 patient in need of further treatment pursuant to section 4822 of this title, the
18 Court Administrator shall within 48 hours report the name of the person
19 subject to the order to the National Instant Criminal Background Check
20 System, established by Section 103 of the Brady Handgun Violence Prevention
21 Act of 1993. The report shall include only information sufficient to identify

1 the person, the reason for the report, and a statement that the report is made in
2 accordance with 18 U.S.C. § 922(g)(4).

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4 Sec. 7. EFFECTIVE DATE

5 This act shall take effect on passage.

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13 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE