

LFC Requester: _____

**AGENCY BILL ANALYSIS
2018 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Jan. 20, 2018

Bill No: HB 17

Sponsor: Matthew McQueen

Agency Code: 264

Short Semiautomatic Gun

Person Writing Gary Cade

Title: Modification Prohibition

Phone: 505-507-7752

Email cadeabq@gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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

Synopsis: HB 17 would add a new subsection to the Criminal Code to make possession of a “rate of fire accelerator” a fourth degree felony for anyone, “...knowingly possessing a firearm accessory or any other device, part or combination of parts that is designed or functions to accelerate the rate of fire of a semiautomatic firearm.” The bill defines semiautomatic firearm as “...a firearm that: (a) uses a portion of the energy of a firing cartridge to extract a fired cartridge case and to chamber the next round; and (b) requires a separate pull of the trigger to fire each cartridge.”

FISCAL IMPLICATIONS

Unknown

SIGNIFICANT ISSUES

The definition of a “rate of fire accelerator” is similar, but not identical, to legislation pending in Congress. (Cf., S. 1916, “(I)t shall be unlawful for any person to import, sell, manufacture, transfer or possess...a trigger crank, a bump-fire device, or any part, combination of parts, component, device attachment, or accessory that is designed or functions to accelerate the rate of fire or a semiautomatic rifle. but does not convert the semiautomatic rifle into a machine gun,” and H.R. 3999, “It shall be unlawful for any person...to manufacture, possess, or transfer any part or combination of parts that is designed to increase the rate of fire of a semiautomatic rifle but does not convert the semiautomatic rifle into a machine gun...”). Those congressional bills also include a requirement that the items have an effect on interstate or foreign commerce.

Massachusetts passed a bill in November that adds “bump stocks” and “trigger cranks” to machine gun in their firearms law and makes it illegal to possess those devices. Bump stock is defined as “...any device for a semiautomatic firearm that increases the rate of fire achievable with such

firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.” Trigger crank is defined as “...any device to be attached to a semiautomatic firearm that repeatedly activates the trigger of the firearm through the use of a lever or other part that is turned in a circular motion, but does not include any firearm originally designed and manufactured to fire through the use of a crank or lever.” (See, Mass. Chap. 140, Sec. 121, Laws of 2017.) California has had a similar law in place since 2011. (See, Sec. 16930, Cal. Penal code.) The most recent law addressing the accelerated rate of fire from semi-automatic firearms was passed in New Jersey and includes only bump stocks, defined as, “...a device that is designed to attach to a semi-automatic firearm in order to fire shots in rapid succession in a manner that simulates an automatic firearm.” (See, N.J.S.2C:39-1(5)(ee)).

Reportedly at least 15 other states are considering legislation to ban bump stocks and other accelerated rate of fire devices, along with several municipalities as diverse as Columbia, South Carolina (which has adopted a city ordinance to ban the devices) and Denver, Colorado. The Department of Alcohol, Tobacco and Firearms is also considering amending their regulations to address this issue, (See, Docket No. 2017R-22 regarding 27 CFR, Parts 478 and 479).

The flurry of legislation was sparked by the mass shooting in Las Vegas, Nevada last September by Stephen Paddock who murdered 58 people (including a woman from New Mexico) and injured 1273 other people, including 422 directly injured by gunshots according to a report released by the Las Vegas Sheriff. Police found 13 AR-15 rifles with bump stocks in the hotel room that Paddock used to fire over 1,100 rounds in 11 minutes into a crowd of concert-goers during his killing spree. That compares to 154 rounds fired in five minutes by the gunman at the Sandy Hook, Connecticut elementary school who murdered 20 first graders and six teachers in December 2012 and who did not have a bump stock or other rate of fire accelerator.

HB 17 would prohibit a device or any component part, designed or used with semiautomatic firearms to accelerate the rate of fire but does not specify how much the rate of fire would have to be accelerated to be a violation. A defendant charged under this bill could perhaps argue that the device in question could not accelerate the rate of fire beyond what a skilled and experienced user of the semiautomatic firearm might achieve so there could be a dispute over whether the device actually did, or could, accelerate the rate of fire. Obtaining admissible evidence on that issue could be problematic. Semiautomatic rifles equipped with bump stocks (which are fairly simple devices and available, at least from one vendor, at prices from \$159.95 to \$329.95) can reportedly fire up to 800 rounds/minute and would, presumptively be banned but might still be disputed as noted above; it's less certain if some other devices like trigger cranks met an unstated standard regarding acceleration of the rate of fire.

HB 17 does not specify what the effective date of the legislation would be, and does not include any emergency clause, so if passed and signed by the governor would go into effect 90 days after the adjournment of the legislature. See, Art. III, Sec. 23, NM Constitution. Persons who had previously obtained a “rate of fire accelerator” before the effective date might challenge it as a violation of the prohibition against ex post facto laws. See, Art. II, Sec. 19, NM Constitution.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS