

1 H.124

2 Introduced by Representatives Waite-Simpson of Essex, Greshin of Warren,
3 Mrowicki of Putney, Ancel of Calais, Clarkson of Woodstock,
4 Cole of Burlington, Cross of Winooski, Deen of Westminster,
5 Martin of Springfield, Ram of Burlington, Stevens of
6 Waterbury, and Yantachka of Charlotte

7 Referred to Committee on

8 Date:

9 Subject: Crimes; weapons; firearms

10 Statement of purpose of bill as introduced: This bill proposes a number of
11 provisions related to firearms regulation. The bill proposes to:

12 (1) prohibit the manufacture, possession, or transfer of large capacity
13 ammunition feeding devices;

14 (2) require that a national instant background check be conducted on
15 persons who purchase firearms at gun shows;

16 (3) prohibit the possession of firearms by persons whom federal law
17 prohibits from possessing firearms;

18 (4) require a course on safe procedures for carrying a concealed firearm by
19 any person who carries a concealed firearm;

20 (5) require the department of mental health to report to the National Instant
21 Criminal Background Check System established by the Brady Handgun

1 Violence Prevention Act of 1993 when a person is subject to a hospitalization
2 order or nonhospitalization order as the result of a mental illness which causes
3 the person to be a danger to him- or herself or others, or when a person is
4 found not guilty of a crime by reason of insanity or incompetent to stand trial
5 due to a mental illness; and

6 (6) repeal the prohibition on the sale or use of gun silencers.

7 An act relating to firearms regulation

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

9 Sec. 1. 13 V.S.A. § 4018 is added to read

10 § 4018. LARGE CAPACITY AMMUNITION FEEDING DEVICES

11 (a) A person shall not manufacture, possess, or transfer a large capacity
12 ammunition feeding device.

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

15 (c) This section shall not apply to the possession or transfer of any large
16 capacity ammunition feeding device otherwise lawfully possessed on or before
17 the effective date of this act.

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

2 (1) manufactured for, transferred to, or possessed by the United States or
3 a department or agency of the United States, or any state or a department,
4 agency, or political subdivision of a state;

5 (2) transferred to or possessed by a state or federal law enforcement
6 officer for legitimate law enforcement purposes, whether the officer is on or
7 off duty;

8 (3) transferred to a licensee under Title I of the Atomic Energy Act of
9 1954 for purposes of establishing and maintaining an on-site physical
10 protection system and security organization required by federal law, or
11 possessed by an employee or contractor of such a licensee on-site for these
12 purposes, or off-site for purposes of licensee-authorized training or
13 transportation of nuclear materials;

14 (4) possessed by an individual who is retired from service with a law
15 enforcement agency after having been transferred to the individual by the
16 agency upon his or her retirement, provided that the individual is not otherwise
17 prohibited from receiving ammunition; or

18 (5) manufactured, transferred, or possessed by a licensed manufacturer
19 or licensed importer for the purposes of testing or experimentation authorized
20 by the U.S. Attorney General.

1 (e) As used in this section, “large capacity ammunition feeding device”
2 mean a magazine, belt, drum, feed strip, or similar device manufactured after
3 the date of enactment of the Assault Weapons Ban Renewal Act of 2007 that
4 has a capacity of, or that can be readily restored or converted to accept, more
5 than 10 rounds of ammunition, provided that “large capacity ammunition
6 feeding device” shall not include an attached tubular device designed to accept,
7 and capable of operating only with, .22 caliber rimfire ammunition.

8 Sec. 2. 13 V.S.A. § 4019 is added to read:

9 § 4019. GUN SHOWS; OPERATION AND SALES

10 (a) A person shall not sell or transfer a firearm at a gun show unless a
11 national instant criminal background check is conducted on the purchaser or
12 transferee in accordance with the provisions of 18 U.S.C. § 922(t).

13 (b) A person shall not, with the intent to evade conducting a national
14 instant criminal background person on the purchaser or transferee in
15 accordance with the provisions of 18 U.S.C. § 922(t):

16 (1) at a gun show, offer or agree to sell or transfer a firearm; and

17 (2) sell or transfer the firearm at a location other than the gun show.

18 (c) A gun show operator shall:

19 (1) prominently post and maintain signs at a gun show stating the
20 requirements established by this section, including a statement that “A national

1 instant criminal background check must be completed prior to any firearm
2 sales or transfers”;

3 (2) notify all gun show vendors at a gun show in writing that a national
4 instant criminal background check must be completed prior to any firearm
5 sales or transfers; and

6 (3) arrange for a licensed gun dealer to be present at a gun show to
7 obtain the background checks required by this section.

8 (d) A licensed gun dealer who conducts a background check at a gun show
9 shall comply with all state and federal recordkeeping requirements applicable
10 to transfers that require a national instant criminal background check under
11 18 U.S.C. § 922(t).

12 (e) A licensed gun dealer may charge a fee of not more than \$10.00 for
13 each background check conducted at a gun show.

14 (f) A person who violates this section shall be imprisoned for not more than
15 one year or fined not more than \$500.00, or both.

16 (g) As used in this section:

17 (1) “Firearm” means any weapon, whether loaded or unloaded, which
18 will expel a projectile by the action of an explosive and includes any weapon
19 commonly referred to as a pistol, revolver, rifle, gun, machine gun, or shotgun,
20 provided that “firearm” shall not include an “antique firearm” as defined in
21 18 U.S.C. § 921(a)(16) or a “curio or relic” as defined in 27 C.F.R. § 178.11.

1 (2)(A) “Gun show” means an event or function conducted to facilitate,
2 in whole or in part, the purchase, sale, offer for sale, transfer, exchange, or
3 collection of firearms at which:

4 (i) 25 or more firearms are offered or exhibited for sale, transfer,
5 or exchange; or

6 (ii) three or more gun show vendors exhibit, sell, offer for sale,
7 transfer, or exchange firearms.

8 (B) “Gun show” includes the entire premises provided or used for the
9 event or function, including any building, structure, facility, or parking area
10 used in connection with the event or function.

11 (3) “Gun show operator” means a person that organizes, produces,
12 sponsors, or operates a gun show.

13 (4) “Gun show vendor” means a person who exhibits, sells, offers for
14 sale, transfers, or exchanges a firearm at a gun show.

15 (5) “Licensed gun dealer” means a licensed importer, licensed
16 manufacturer, or licensed dealer required to conduct national instant criminal
17 background checks under 18 U.S.C. § 922(t).

18 Sec. 3. 13 V.S.A. § 4020 is added to read:

19 § 4020. PERSONS PROHIBITED FROM POSSESSING FIREARMS

20 (a) It shall be unlawful for any of the following persons to possess or
21 receive a firearm:

1 (1) a person who has been convicted in any court of a crime punishable
2 by imprisonment for a term exceeding two years;

3 (2) a person who is a fugitive from justice;

4 (3) a person who is an unlawful user of or addicted to any controlled
5 substance as defined in 21 U.S.C. § 802;

6 (4) a person who has been adjudicated as mentally incompetent or who
7 has been committed to a mental institution;

8 (5) an alien unlawfully in the United States;

9 (6) a person who has been discharged from the U.S. Armed Forces
10 under dishonorable conditions;

11 (7) a person who, having been a citizen of the United States, has
12 renounced U.S. citizenship;

13 (8) a person who has been convicted in any court of a misdemeanor
14 crime of domestic violence; or

15 (9) a person who is subject to a relief-from-abuse order issued under
16 15 V.S.A. § 1103 or 1104.

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

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

1 (d) As used in this section, "firearm" means any weapon, whether loaded or
2 unloaded, which will expel a projectile by the action of an explosive and
3 includes any weapon commonly referred to as a pistol, revolver, rifle, gun,
4 machine gun, or shotgun.

5 Sec. 4. 13 V.S.A. § 4021 is added to read:

6 § 4021. CONCEALED WEAPONS

7 (a) A person shall not carry a concealed firearm unless the person:

8 (1) has completed the safe handling of firearms course required by
9 10 V.S.A. § 4254(c); and

10 (2) while carrying the concealed firearm, is in possession of a certificate
11 stating that the person has completed the safe handling of firearms course
12 required by 10 V.S.A. § 4254(c).

13 (b) A person who violates this section shall be fined not more than
14 \$500.00.

15 Sec. 5. 10 V.S.A. § 4254(c) is amended to read:

16 (c) The ~~commissioner~~ Commissioner shall provide for a course of basic
17 instruction in the safe handling of firearms, including safe procedures for
18 carrying a concealed firearm, resurvival training and first aid training, and a
19 course in bow hunter education. For this purpose, the ~~commissioner~~
20 Commissioner may cooperate with any reputable association, organization, or
21 agency, and he or she may designate any person found by him or her to be

1 competent to give such instruction. A person satisfactorily completing the
2 course of instruction shall receive from the instructor a certificate in evidence
3 thereof. No fee shall be charged for a course of instruction provided under this
4 subsection.

5 Sec. 6. 13 V.S.A. § 4822 is amended to read:

6 § 4822. FINDINGS AND ORDER; MENTALLY ILL PERSONS

7 (a) If the court finds that such person is a person in need of treatment or a
8 patient in need of further treatment as defined in 18 V.S.A. § 7101.2:

9 (1) ~~the~~ The court shall issue an order of commitment directed to the
10 ~~commissioner of developmental and mental health services~~ Commissioner of
11 Mental Health, which shall admit the person to the care and custody of the
12 ~~department of developmental and mental health services~~ Department of Mental
13 Health for an indeterminate period. In any case involving personal injury or
14 threat of personal injury, the committing court may issue an order requiring a
15 court hearing before a person committed under this section may be discharged
16 from custody.

17 (2) The Commissioner of Mental Health shall report the name of the
18 person subject to the order to the National Instant Criminal Background Check
19 System, established by Section 103 of the Brady Handgun Violence Prevention
20 Act of 1993, at the FBI Criminal Justice Information Services Division. The

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

3 * * *

4 Sec. 7. 18 V.S.A. § 7103 is amended to read:

5 § 7103. DISCLOSURE OF INFORMATION

6 (a) All certificates, applications, records, and reports, other than an order of
7 a court made for the purposes of this part of this title, and directly or indirectly
8 identifying a patient or former patient or an individual whose hospitalization or
9 care has been sought or provided under this part, together with clinical
10 information relating to such persons shall be kept confidential and shall not be
11 disclosed by any person except insofar:

12 (1) as the individual identified, the individual's health care agent under
13 section 5264 of this title, or the individual's legal guardian, if any (or, if the
14 individual is an unemancipated minor, his or her parent or legal guardian),
15 shall consent in writing; ~~or~~

16 (2) as disclosure may be necessary to carry out any of the provisions of
17 this part; ~~or~~

18 (3) as a court may direct upon its determination that disclosure is
19 necessary for the conduct of proceedings before it and that failure to make
20 disclosure would be contrary to the public interest; or

