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Rep. Baumbach
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Heffernan

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 70

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DEADLY WEAPONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter VII, Chapter 5, Title 11 of the Delaware Code by making deletions as shown by
2 strike through and insertions as shown by underline as follows:

3 ~~§§ 1462-1469. [Reserved.]~~

4 § 1462. Large-capacity magazines prohibited; class B misdemeanor or class E felony.

5 (a) As used in this section:

6 (1) "Ammunition feeding device" means any magazine, belt, drum, feed strip, or similar device that holds
7 ammunition for a firearm.

8 (2)a. "Large-capacity magazine" means any ammunition feeding device capable of accepting, or that can
9 readily be converted to accept, more than 15 rounds of ammunition.

10 b. "Large-capacity magazine" includes an ammunition feeding device with a removable floor plate or end
11 plate, if the device can readily be extended to accept more than 15 rounds of ammunition.

12 c. "Large-capacity magazine" does not include an attached tubular device designed to accept, and only
13 capable of operating with, .22 caliber rimfire ammunition.

14 (3) "Licensed firearms dealer" means a person licensed as a deadly weapons dealer under Chapter 9 of Title
15 24 and 18 U.S.C. § 921 et seq.

16 (4) "Qualified retired law-enforcement officer" means as defined under § 1441B(c) of this title.

17 (b)(1) Except as otherwise provided in subsections (c) through (e) of this section, it is unlawful for a person to
18 manufacture, sell, offer for sale, purchase, receive, transfer, or possess any large-capacity magazine.

19 (2) A violation of this section is a class B misdemeanor for a first offense and a class E felony for a
20 subsequent offense.

21 (3) A large-capacity magazine is subject to forfeiture for a violation of this subsection.

22 (4) The Superior Court has exclusive jurisdiction over a violation of this subsection.

23 (c) This section does not apply to any of the following:

24 (1) Personnel of the United States government or a unit of that government who are acting within the scope of
25 official business.

26 (2) Members of the armed forces of the United States or of the National Guard who are acting within the
27 scope of official business.

28 (3) A law-enforcement officer who is acting within the scope of official business.

29 (4) A qualified retired law-enforcement officer.

30 (5) An individual who holds a valid concealed carry permit issued by the Superior Court under § 1441 of this
31 title.

32 (6) A licensed firearms dealer that sells a large-capacity magazine to another licensed firearms dealer or to an
33 individual exempt under paragraphs (c)(1) through (5) of this section.

34 (d) A resident of this State who possesses a large-capacity magazine on [the effective date of this Act] shall, no
35 later than June 30, 2020, relinquish the large-capacity magazine to a law-enforcement agency of this State.

36 (e)(1) The Secretary of the Department of Safety and Homeland Security shall establish and administer a
37 compensation program for residents of this State only to allow a resident in possession of a large-capacity magazine on [the
38 effective date of this Act] to relinquish the large-capacity magazine to the Department or a participating local law-
39 enforcement agency in exchange for a monetary payment established under this subsection.

40 (2) The Secretary shall adopt rules to implement the compensation program, including the following:

41 a. That the compensation program be implemented between [the effective date of this Act] and June 30,
42 2020, at locations in regions throughout the State. The Department shall coordinate with local law-enforcement
43 agencies in implementing the program.

44 b. That the compensation program allows a resident to relinquish a large-capacity magazine to the
45 Department, or a local law-enforcement agency participating in the program, in exchange for a compensation in
46 the amount of \$10 for each large-capacity magazine.

47 c. That establishes the method for providing the monetary payment and reimbursing a participating law-
48 enforcement agency for payments made to residents under the compensation program.

49 d. That the compensation program is subject to the availability of funds appropriated for this specific
50 purpose by the General Assembly. This subsection does not create a right or entitlement in a resident to receive a
51 monetary payment under the compensation program.

52 (3) The Secretary shall submit a report to the General Assembly by December 30, 2020, providing the results
53 of the compensation program, including the number of large-capacity magazines relinquished to law-enforcement
54 agencies, by county, and the total amount expended under the program.

55 §§ 1463-1469. [RESERVED].

56 Section 2. The sum of \$15,000 is appropriated from the General Fund in Fiscal Year 2020 for the purpose of
57 providing compensation for the purchase of large-capacity magazines by the Department of Safety and Homeland Security
58 under Section 1 of this Act.

59 Section 3. If any provision of this Act or the application of this Act to any person or circumstance is held invalid,
60 the provisions of this Act are severable if the invalidity does not affect the other provisions or applications of the Act which
61 can be given effect without the invalid provision or application.

62 Section 4. This Act is to be known as the “Delaware Large Capacity Magazine Prohibition Act of 2019.”

63 Section 5. This Act takes effect 60 days after its enactment into law.

64 Section 6. Section § 1462(e) of Title 11, as contained in Section 1 of this Act, expires on January 1, 2021.

SYNOPSIS

This Act creates the Delaware Large Capacity Magazine Prohibition Act of 2019. The Act includes clear definitions for the term “large-capacity magazine,” as an ammunition feeding device with a capacity to accept more than 15 rounds of ammunition. After enactment, possession of large-capacity magazine will be a class B misdemeanor for a first offense and a class E felony for any subsequent offense.

Those who possess a prohibited large-capacity magazine when this Act takes effect must, by June 30, 2020, relinquish the large-capacity magazine to a law-enforcement agency in this State. This Act establishes a buyback program for large-capacity magazines, to be overseen by the Department of Safety and Homeland Security.

Author: Senator Sokola