

LFC Requester: _____

**AGENCY BILL ANALYSIS
2020 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 **Amendment** _____
Correction _____ **Substitute** _____

Date January 16, 2020
Bill No: HB 85-264

Sponsor: Patricia Roybal Caballero
Short Title: Unlawful Possession of a Semi-Automatic Firearm

Agency Name and Code Number: Administrative Office of the District Attorneys 264
Person Writing Phone: 575-770-3120 **Email** dgallegos@questalaw.

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	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 85 creates a new law that prohibits the possession of a device that converts a firearm from semi-automatic to fully automatic (capable of firing a continuous burst of bullets just by pulling the trigger, as opposed to a semi-automatic firearm that fires bullets upon each pull of the trigger). There have been devices that are used to convert a semi automatic firearm to a fully automatic. The shooting that took place at a concert in Nevada is an example where a person used a device (also known as a “bump stock”) to convert his firearm to fully automatic and killed many people. Possession of these devices will be a fourth degree felony.

FISCAL IMPLICATIONS

Rt

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

A new criminal law could mean more resources for law enforcement, district attorneys, public defenders, courts and corrections.

SIGNIFICANT ISSUES

The Second Amendment to the United States Constitution states the “the right of the people to keep and bear arms shall not be infringed.”

Article II, Section 6 of the New Mexico Constitution also guarantees the right of citizens to keep and bear arms for, among other reasons, security and defense.

It is not clear whether devices such as those that are the target of HB 85 are considered “arms” as set forth in both the New Mexico and United States Constitutions.

The federal government has banned the possession of “bump stocks” and/or devices that convert semiautomatic firearms to fully automatic firearms. See 27 CFR Parts 447, 478 and 479. There is no federal statute banning the devices as there have been challenges to

the banning of such devices by Second Amendment advocates. If enacted, there may be challenges to its constitutionality. So far, the US Supreme Court has declined to hear any of the challenges.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See 27 CFR Parts 447, 478 and 479

TECHNICAL ISSUES

Presently, Delaware, Hawaii, Maryland, Washington, Washington D.C. and Nevada have banned bump stocks.

OTHER SUBSTANTIVE ISSUES

The definition of “automatic firearm” as contained in HB 85, is similar to the definitions set forth in 27 CFR 447, 478 and 479.

“Bump stocks” are listed in the definitions contained in the federal regulations but no such name is used in HB 85. HB 85 uses general language presumably to cover any and all devices that can convert a semi-automatic weapon to an “automatic firearm.”

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Bump stocks will still be illegal pursuant to federal rules and persons possessing them may be subject to federal investigation and prosecution.

AMENDMENTS