

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** January 26, 2026*Check all that apply:***Bill Number:** SB 17Original Correction **Sponsor:** Sen. Micaelita Debbie O'Malley, Rep. Andrea Romero, Sen. Heather Berghams, and Rep. Charlotte LittleAmendment Substitute **Short Title:** Stop Illegal Guns Trade Act

Agency Name and Code Number: 305 – New Mexico Department of Justice

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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1 enacts a section that entitles the bill the Stop Illegal Gun Trade and Extremely Dangerous Weapons Act (Act).

Section 2 enacts a section that defines (1) .50 caliber cartridge, (2) .50 caliber rifle, (3) antique firearm, (4) dealer (5) department (department of public safety (DPS)), (6) detachable magazine, (7) firearm, (8) fixed magazine, (9) gas-operated firearm, (10) gun show, (11) law enforcement agency, (12) law enforcement officer, (13) machine gun, (14) manufacture, (15) semiautomatic firearm, (16) straw purchase, and (17) transaction.

Section 3 requires DPS and the Attorney General to promulgate rules governing the physical security of firearm dealer premises and inventory by July 1, 2026. This section requires the rules to address security alarm systems for dealer premises, site hardening, and the installation and use of video surveillance systems.

Section 4 imposes a restriction that a dealer may not employ a person to handle, sell, or deliver firearms who is under 21 years of age. It also requires all employees of a dealer to undergo a national background check if permitted by federal regulations. It also requires employees to undergo training developed by DPS that addresses state and federal law, how to recognize straw purchases, illegal purchases, fraudulent activity, persons who intend to use a firearm for unlawful purposes, reporting theft and burglary, and how to educate customers on gun safety.

Section 5 requires dealers to maintain records regarding the purchase, sales, acquisitions, and dispositions of firearms. The records required by this section must be disclosed to law enforcement agencies but are exempt from IPRA.

Section 6 requires dealers to report to DPS transactions involving more than one firearm within five business days and thefts and losses of firearms. It requires dealers to respond to law enforcement trace requests and requests for documents within 24 hours. It requires dealers to report trace requests and federal inspections to DPS. It requires dealers to submit annual reports to DPS regarding sales and transfers of firearms.

Section 7 prohibits dealers from selling or transferring “extremely dangerous weapons”, which are firearms and ammunitions with a detachable magazine holding more than 10 rounds of

ammunition, .50 caliber rifles and cartridges, gas-operated semiautomatic firearms that can accept a detachable magazine, or machine guns. It exempts firearms that use .22 caliber or less of rimfire ammunition, antique firearms, single shot rifles, breech-loading rifles, muzzleloading rifles, bolt-action rifles, lever-action or pump-action rifles, single or double-action semiautomatic handguns that use recoil to cycle, fixed-magazine rifles with a capacity of 10 or less. This section exempts law enforcement agencies, Indian tribes, and licensees under the Atomic Energy Act.

Section 8 requires dealers to certify annually that they complied with the Act. Falsifying information in a compliance report is a misdemeanor. It requires DPS to promulgate rules for periodic inspections of dealer premises, which are required at least every three years for each dealer. It requires DPS to prepare an annual report of its inspections.

Section 9 requires dealers to post notices that failure to securely store a firearm may result in criminal penalties and to advise that firearms and ammunition be separately locked up using tamper resistant triggerlocks, lockboxes, or safes; that firearm sales require a background check; that purchasing firearms for someone intending to commit a crime or has a felony record is a crime; and of the National Suicide Prevention Lifeline. It requires these notices at gun shows.

Section 10 provides that violating Section 7 of the Act is a misdemeanor. Violating Sections 2-6, or 8-9 can result in a civil penalty of \$200 for the first violation and \$1000 for each subsequent violation.

FISCAL IMPLICATIONS

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.

SIGNIFICANT ISSUES

The bill's prohibition on the sale or transfer of "extremely dangerous weapons" will likely face challenges based on the Second Amendment of the United States Constitution. Previously, the Federal Assault Weapons Ban of 1994 imposed a federal prohibition against assault weapons and large capacity magazines. The ban, although never ruled unconstitutional, was challenged on multiple grounds. This statute expired in September 2004 through a sunset provision.

Subsequently, the United States Supreme Court decided *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 17 (2022), and set forth the current framework for evaluating Second Amendment claims. That is, when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct, and to justify a firearm regulation the government must demonstrate that the regulation is "consistent with the Nation's historical tradition of firearm regulation." *Id.* *Bruen* firmly rejected any application of an intermediate scrutiny standard or component, an approach that had been applied by New Mexico appellate courts. This burden-shifting places the justification requirement squarely on the government to demonstrate constitutionality, rather than requiring challengers to prove restrictions are unconstitutional. More recently, in *United States v. Rahimi*, 602 U.S. 680 (2024), the Court clarified that in analyzing historical tradition, the government need not show a strict match, but only a similar analog. In *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016), the United States Supreme Court reiterated that the Second Amendment protects weapons for self-defense

purposes and not only for military reasons, and that it applies to weapons “that were not in existence at the time of the founding.” The Court clarified that simply being a “modern invention” did not make a weapon dangerous and unusual. *Id.* Clear lower court precedent is lacking, as the 10th Circuit Court of Appeals has not squarely addressed prohibitions on the sale or transfer of assault style weapons or large capacity feeding devices.

This bill will also likely face challenges under the Second Amendment’s state analog – Article II, Section 6 of the New Mexico Constitution. New Mexico’s Constitution provides broad protections, including the right to keep and bear arms for “security and defense, for lawful hunting and recreational use and for other lawful purposes.” *See State v. Murrillo*, 2015-NMCA-046, ¶ 13 (New Mexico courts can “no longer apply rational basis scrutiny to challenges under the right to bear arms” and must apply heightened scrutiny consistent with federal requirements.)

This bill reflects a similar policy objective as SB 279 from the 2025 legislative session, but Section 7 of SB 17 expands the scope of restrictions. Unlike SB 279, which focused largely on gas-operated semiautomatic firearms, SB 17’s sale/transfer limitations include .50 caliber rifles (many of which are recoil-operated) and their associated cartridges.

PERFORMANCE IMPLICATIONS

This bill requires the Attorney General to promulgate rules governing the physical security of firearm dealer premises and inventory by July 1, 2026.

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

The current definition of “gas-operated firearm” encompasses any firearm that uses high-pressure gas from a fired cartridge to cycle the action through five specified mechanisms. Under this broad definition, several commercially available handguns commonly used for self-defense—such as the Walther CCP M2 (.380) (gas-delayed blowback technology), Desert Eagle (.357 Magnum) (rotating bolt mechanism similar to rifles, where gas is tapped from the barrel to cycle the action), and Smith & Wesson M&P (.22 LR) (blowback action)—would qualify as gas-operated firearms. Drafters may wish to reassess whether this scope aligns with their intent, as its application may be broader than anticipated. A prohibition of the sale or transfer of firearms used for self-defense purposes would likely be challenged on Second Amendment grounds. *See Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016) (concurring opinion).

Section 5(A)(5) and 5(A)(6) require firearm dealers to maintain firearm disposition records and make them available to law enforcement “at any time.” These provisions also authorize law enforcement officers to inspect such records during business hours. However, under the Fourth Amendment to the U.S. Constitution and Article II, Section 10 of the New Mexico Constitution, officers conducting criminal investigations must obtain a search warrant supported by probable cause—or rely on a recognized exception—before accessing an individual’s papers and effects. It is unclear whether this provision seeks to modify these longstanding constitutional standards. If it does, such an interpretation would likely invite significant constitutional challenges.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A