

# GOSAFE ACT

**Senator Martin Heinrich (D-NM)**

The ***Gas-Operated Semi-Automatic Firearms Exclusion (GOSAFE) Act*** would amend the Gun Control Act of 1968 (18 U.S.C. Chapter 44, §§921 et seq.) to increase federal regulation over certain gas-operated semi-automatic firearms, related modifications, large capacity magazines, and unlawful conversion devices.

## **Section 1: Short Title**

“*Gas-Operated Semi-Automatic Firearms Exclusion Act*” or the “*GOSAFE Act*”.

## **Section 2: Restrictions**

### **A. Firearms Definitions (18 U.S.C. §§ 921(a)(38), (39), (40), and (41))**

The *GOSAFE Act* would define certain terms as follows:

**Semi-automatic Firearm** means any firearm that:

- uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round;
- requires a separate pull, release, push or initiation of the trigger to fire each cartridge; and
- is not a machinegun.

**Cycle the Action** means to extract the fired cartridge case, chamber the next cartridge, and prepare the firing mechanism to fire again.

**Gas-operated** means any semi-automatic firearm that harnesses or traps a portion of the high-pressure gas from a fired cartridge to cycle the action using:

- a *long stroke piston*, where gas is vented from the barrel to a piston that is mechanically fixed to the bolt group and moves to cycle the action;
- a *short stroke piston*, where gas is vented from the barrel to a piston that moves separately from the bolt group so that the energy is imparted through a gas piston to cycle the action;
- a *direct impingement* system that traps and vents gas from either the barrel or the chamber to directly strike or impinge the bolt, bolt carrier, or slide assemble, to unlock and cycle the action;
- a *hybrid* system that combines elements of systems described above to capture gas vented from the barrel to cycle the action;
- a *blowback-operated* system that directly utilizes the expanding gases of the ignited propellant powder acting on the cartridge case to drive the breechblock or breech bolt rearward; or
- a *recoil-operated* system that utilizes the recoil force to unlock the breech bolt and then to complete the cycle of extracting, ejecting, and reloading.

**Large capacity ammunition feeding device (LCAFD)** means a detachable magazine, belt, drum, feed strip, helical feeding device, or similar device, including any such device joined or coupled with another in any manner, that has an overall capacity of, or that can be readily restored, changed, or converted to accept, more than 10 rounds of ammunition.

- **Provides an exception** for .22 caliber or less rimfire ammunition devices.

## **B. Gas-Operated Semi-automatic Firearm Prohibitions (18 U.S.C. § 922(v))**

The *GOSAFE Act*, upon enactment, would:

**Prohibit any person** from importing, selling, manufacturing, transferring, receiving, or possessing a firearm, device, or combination of parts if done knowingly or with reasonable cause to believe that:

- the firearm is included on the ATF list of prohibited gas-operated semi-automatic firearms;
- the firearm is a modified to operate as a prohibited gas-operated semi-automatic firearm;
- the combination of parts is designed to modify a firearm to operate as a prohibited gas-operated semi-automatic firearm;
- the combination of parts is designed to be assembled into a firearm that operates as a prohibited gas-operated semi-automatic firearm;
- the combination of parts function to produce a gas-operated cycling action that has not been lawfully manufactured as part of a firearm design approved by ATF;
- the device or combination of parts is designed to materially increases the rate of fire of the firearm; or
- the firearm has been modified in any way that materially increases the rate of fire of the firearm.
- **Provide exceptions** for federal, state, local and tribal governments.

**Allow the continued possession** of gas-operated semi-automatic firearms lawfully manufactured and transferred before enactment.

**Prohibit any person** from transferring any gas-operated semi-automatic firearm after the date of enactment.

- **Provide an exception** for transfer between immediate family members.

**Require federally licensed importers and manufacturers** to mark gas-operated semi-automatic firearms in a manner prescribed by the Attorney General.

**Not prohibit or apply** to firearms chambered for .22 caliber rimfire or less ammunition; semi-automatic shotguns; recoil-operated handguns; rifles and shotguns with permanently fixed magazines of 10 rounds or less; handguns with permanently fixed magazines of 15 rounds or less; and several types of firearms with actions that are not semi-automatic.

## **C. Large Capacity Ammunition Feeding Device (LCAFD) Prohibitions (18 U.S.C. § 922(w))**

The *GOSAFE Act*, upon enactment, would:

**Prohibit any person** from importing, selling, manufacturing, transferring, receiving, or possessing a large capacity ammunition feeding device manufactured after the date of enactment.

- **Provide exceptions** for federal, state, local and tribal governments.

**Allow the continued possession** of large capacity ammunition feeding devices lawfully owned or possessed prior to enactment.

**Prohibit the transfer** of any large capacity ammunition feeding device lawfully owned or possessed prior to enactment.

- **Provide exceptions** for federal, state, local and tribal governments.

**Require federally licensed importers and manufacturers** to mark large capacity ammunition feeding devices in a manner prescribed by the Attorney General.

### **Section 3: Byrne Grants for Buy-Back Programs (34 U.S.C. § 10152(a)(1))**

The *GOSAFE Act*, upon enactment, would:

- **Establish a buy-back program** through Edward Byrne Memorial Justice Assistance Grant (JAG) funding.
- **Provide compensation** for individuals who voluntarily turn over non-transferrable firearms and large capacity ammunition feeding devices.

### **Section 4: Penalties (18 U.S.C. § 924(a)(9))**

For violations of the provisions described above, the *GOSAFE Act* would:

**Set a misdemeanor penalty** of a fine of not more than \$5,000 and not more than 12 months' imprisonment, or both, for each violation of the gas-operated semi-automatic firearm prohibitions.

**Set a misdemeanor penalty** of a fine of not more than \$5,000 and not more than 12 months' imprisonment, or both, for each violation of the large capacity ammunition feeding device prohibitions.

**Set a felony penalty** of a fine of not more than \$250,000 and not less than two years', but not more than 10 years' imprisonment for committing, or attempting to commit, any federal offense punishable by more than one year's imprisonment, while possessing a prohibited gas-operated semi-automatic firearm.

### **Section 5: Prohibited Firearm Determinations (18 U.S.C. § 935)**

The *GOSAFE Act*, after enactment, would:

**Require the Attorney General**, through the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF Director), to compile and update a list of regulated gas-operated semi-automatic firearms.

- **Publish the list** of regulated gas-operated semi-automatic firearms on the Federal Register.
- **Provide notice of the list** of regulated gas-operated semi-automatic firearms through Federal Firearms Licensed (FFL) dealers.
- **Require clear and convincing evidence** before removing any regulated gas-operated semi-automatic firearm from the list.

**Establish a licensed manufacturer application process** through the Attorney General for semi-automatic firearm design approval, which will include:

- detail about the firearm’s specifications and operations;
- a physical sample of the firearm;
- any patent application;
- marketing materials and plans;
- explanation for why the firearm would not meet the gas-operated semiautomatic firearm prohibitions; and
- any other information that may be required by the Attorney General.

**Require the Attorney General** to issue a written determination approving or denying the semi-automatic firearm design application within 240 days of receiving the application.

**Require the Attorney General** to establish an appropriate fee structure for processing design approval applications, with the consideration that the fees collected be substantial enough to cover the necessary costs incurred processing such applications.

**Establish a Firearm Safety Trust Fund** into which would be deposited all taxes imposed under the National Firearms Act and any fees collected during the application process.

**Allow a licensed manufacturer appeal** of a denied design application within 90 days of the Attorney General’s determination.

**Require the Attorney General** to issue a written determination upholding or revising the denial of the application within 180 days of receiving the appeal.

**Allow federal court review** of denied licensed manufacturer appeals and direct the court to set aside any determination found to be arbitrary and capricious.

**Establish a private right of action** for injunctive relief to any person affected by the subsequent removal of any firearm that was previously included on the list of regulated gas-operated semi-automatic firearms.

**Authorize necessary appropriations** to the Department of Justice in order to effectively facilitate prohibited firearms determinations and licensed manufacturer application processing.

### **Background: Operating systems**

#### **A. Gas-operated systems**

Arguably, all assault weapons are “gas-operated,” in that high-pressure gases generated from the burning propellant of a fired cartridge both force the projectile(s) out the muzzle of the barrel and cycle the action. According to the Sporting Arms and Ammunition Manufacturer’s Institute (SAAMI), a “gas operated action” is an automatic or semi-automatic type firearm in which the

propellant gases are used to unlock the breech bolt and then to complete the cycle of extraction and ejection. This is usually accomplished in conjunction with a spring that returns the operating parts to battery. The propellant gases used to cycle the action in such a firearm are most commonly trapped and vented from the barrel.

### **B. Blowback-operated systems**

By comparison, according to SAAMI, a “blowback action” is an automatic or semi-automatic action that utilizes the expanding gases of the ignited propellant powder to drive the breechblock action rearward. In other firearms, the breechblock holds the breech closed under the force of the recoil spring, no mechanical locking system being employed. The gas-driven energy used to propel the bullet forward is also used to propel the bolt rearward and cycle the action. The inertia of the bolt is used to offset the energy of the cartridge and chambers the next round as it returns to position.

### **C. Recoil-operated systems**

Also by comparison, according to SAAMI, a “recoil operated action” is a self-loading type firearm in which the force of recoil is used to unlock the breech bolt and then complete the cycle of extracting, ejecting and reloading. In such a firearm, propellant energy produces a rearward force on the slide by trapping gas in the chamber. Chamber components use this force to cycle the action by disengaging the barrel, before ejecting the cartridge and utilizing recoil energy to load the next round, at which point the barrel reconnects to the slide.