

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

915B0868

SENATE RESOLUTION NO. 6

Introduced by: Senator Nelson

1 A RESOLUTION, Supporting and encouraging all efforts, public and private, to enjoy the
2 implementation of any regulation that impermissibly and unconstitutionally defines a
3 machine gun to include a bump-stock-type device.

4 WHEREAS, on December 26, 2018, the Department of Justice amended the regulations of
5 the Bureau of Alcohol, Tobacco, Firearms and Explosives to provide that a machine gun
6 includes a bump-stock-type device; and

7 WHEREAS, in the eighty-four years since passage of the National Firearms Act, the Bureau
8 of Alcohol, Tobacco, Firearms and Explosives has never seen the need to enact regulations
9 further expounding on the statutory meaning of the term machine gun, until now; and

10 WHEREAS, numerous times in the intervening years, the Bureau of Alcohol, Tobacco,
11 Firearms and Explosives has been asked to determine whether various bump-stock-type devices
12 constitute machine guns under federal law and has consistently acknowledged that such devices,
13 which have no automatically functioning mechanical parts or springs and perform no automatic
14 mechanical function when installed, are not machine guns under federal law; and

15 WHEREAS, in response to political pressure after the Las Vegas shooting on October 1,



1 2017, President Trump ordered that the Bureau of Alcohol, Tobacco, Firearms and Explosives
2 reclassify bump-stock-type devices as machine guns through regulation, despite the clarity of
3 federal law and the Bureau's consistent legal conclusions to the contrary; and

4 WHEREAS, the regulation requires that any person, including an individual, retailer,
5 wholesaler, and manufacturer, who owns a bump-stock-type device must, prior to the
6 implementation date of the rule, destroy the device or provide for its destruction, without
7 compensation; and

8 WHEREAS, the regulation makes no exception for any person who legally and legitimately
9 acquired a bump-stock-type device prior to the effective date of the regulation; and

10 WHEREAS, by defining bump-stock-type devices as machine guns, the regulations are
11 nothing short of a veiled attempt by the federal government to infringe upon the constitutional
12 rights of law-abiding citizens to keep and bear arms; and

13 WHEREAS, by defining bump-stock-type devices as machine guns, the regulations are
14 arbitrary and capricious, contrary to law, an obfuscation of the manner in which bump stocks
15 operate, and reach an irrational determination, unsupportable in either law or fact; and

16 WHEREAS, by defining bump-stock-type devices as machine guns, the Bureau of Alcohol,
17 Tobacco, Firearms and Explosives is entrapping citizens who have simply purchased a
18 federally approved firearm accessory; and

19 WHEREAS, by defining bump-stock-type devices as machine guns and requiring law
20 abiding citizens to surrender their privately held and legally acquired property, without just
21 compensation, the Bureau of Alcohol, Tobacco, Firearms and Explosives is in direct violation
22 of the constitutional takings clause; and

23 WHEREAS, by defining bump-stock-type devices as machine guns, the Bureau of Alcohol,
24 Tobacco, Firearms and Explosives is engaging in a regulatory activity that falls outside of any

1 constitutionally enumerated or permissible power:

2 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Ninety-Fourth Legislature
3 of the State of South Dakota, that the Senate, for all the reasons stated above, supports and
4 encourages all efforts, public and private, to enjoin the implementation of any regulation that
5 impermissibly and unconstitutionally defines a machine gun to include a bump-stock-type
6 device.