

# Why Congress Needs to Ban Bump Stocks

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The massacre in Las Vegas last month was the worst mass shooting in American history; 58 concert-goers were killed and over 500 others were injured. Part of what made this attack so deadly was the fact that the shooter used a device called a bump stock (sometimes also called a slide stock). These devices dramatically increase the rate of fire from semi-automatic rifles, and right now they are completely unregulated. They shouldn't be.

Feeling pressure after the massive loss of life inflicted in Las Vegas, even the National Rifle Association (NRA) questioned whether bump stocks should be legal. In an attempt to avoid Congressional action, they suggested an administrative fix. But the truth is, that simply won't cut it. Congress must act to pass a bill banning devices like bump stocks that allow guns to fire off a staggering amount of bullets in a very short period of time.

## What is a Bump Stock?

Bump stocks are devices that attach to the rear of a firearm, replacing the standard stock on a rifle. They increase the rate of fire by rocking the gun back and forth rapidly, using the

recoil of each shot to allow the trigger to be engaged more frequently than possible by a human finger alone.<sup>1</sup> The shooter holds their finger in place, while the stock “bumps” or “slides” forward and backward, enabling the rifle to fire over and over again.<sup>2</sup> Only one bullet is fired per trigger pull, but the trigger is pulled at an extremely high frequency. Compared to the semi-automatic AR-15 used at Pulse Nightclub in Orlando which fired 24 bullets in nine seconds, the rifles fitted with bump stocks in Las Vegas fired 90 shots in 10 seconds.<sup>3</sup> Attaching one of these devices to a semi-automatic weapon allows it to function very similarly to an automatic weapon, which can shoot 98 shots in seven seconds.<sup>4</sup>

## **Why are Bump Stocks Unregulated?**

Despite almost quadrupling the rate of semi-automatic fire and bringing it to near parity with an automatic weapon, bump stocks are not regulated like machine guns (a term for fully-automatic weapons), which are extremely difficult to purchase. The first regulation of machine guns dates back to 1934—as response to horrifying mob-era gun violence. The National Firearms Act of 1934 imposed a special tax on machine guns, designed to curtail their sale and possession while requiring them to be registered.<sup>5</sup> Then, in 1986, Congress effectively banned the sale of fully-automatic firearms, making an exception only for those that were already in existence and registered.<sup>6</sup> In order to purchase an existing automatic weapon, a buyer must submit fingerprints, go through an FBI criminal background check, register with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and pay \$200.<sup>7</sup>

Under federal law, machine guns are defined as “any combination of parts designed and intended for use in converting a weapon to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.” The line: “single function of the trigger” is key. If one pull of the trigger fires one bullet, the gun is categorized as semi-automatic. If one pull of the trigger fires more than

one bullet, the gun is categorized as fully automatic and thus highly regulated.<sup>8</sup>

Because a rifle with a bump stock still technically pulls the trigger for each gunshot, it is still considered a semi-automatic weapon—even though it fires nearly as fast as a fully automatic rifle. That's why in 2010, after one of the major bump stock manufacturers asked ATF about the new device, the agency determined that bump stocks could not be regulated under federal statutes.<sup>9</sup> According to the President of the ATF Association (ATFA), a group comprised of current and former ATF agents, the ATF considered all of the documentation regarding the device and determined that they simply could not impose the same regulations on bump stocks as machine guns.<sup>10</sup> Specifically, the ATF noted that bump stocks do not have any “automatically functioning mechanical parts or springs and perform no automatic mechanical function.”<sup>11</sup> Under federal law, it doesn't matter that the trigger is being pulled faster than it could be naturally, so their hands were tied.<sup>12</sup> Even with the addition of the bump stock, the gun is firing one bullet per trigger pull. In that way, ATFA noted, the bump slide was engineered specifically to avoid regulation under federal law.<sup>13</sup> In a briefing for lawmakers and their staffs, ATF reiterated what ATFA explained in its letter. Specifically, ATF does not believe it has the authority to ban bump stocks independent of legislative action.<sup>14</sup>

## **Why does Congress Need to Act?**

Our gun laws are outdated. In fact, the last major pieces of gun safety legislation were signed by President Clinton in the early 90's. Technology has transformed nearly every industry since that time, and firearms are not immune from those advancements. That's why it's important that our laws keep pace with new devices that circumvent current statutes and regulations. Passing a ban on bump stocks is a common sense move that would make America safer and show that our government can keep up with our quickly changing society.<sup>15</sup> There was a quick bipartisan consensus that we

need to do something in the wake of Las Vegas. Vocal proponents of gun rights like Senator Ron Johnson (R-WI) and House Speaker Paul Ryan have expressed concerns over bump stocks. Senator Johnson told reporters that he had “no problem banning [bump stocks]” while Speaker Ryan said that the issue of bump stocks is “clearly something we need to look into.”<sup>16</sup> Some have wondered if there is a simple administrative fix to this issue that would make Congressional action unnecessary. The truth is, there isn’t.

Under the current law, ATF’s hands are tied. The agency can review its ruling on bump stocks, but it would likely come to the same conclusion. Because the attachment of a bump stock does not convert the semi-automatic weapon into an automatic weapon under the statutory definition, it is not subject to regulation. If ATF just reverses its position and states independently that bump stocks are now subject to regulation, the new ruling would be open to serious legal challenges. The agency’s about-face would spur lawsuits in which defending the change would be difficult. Even though the United States Supreme Court has recently held that it’s okay for an agency to change course, the new position must still be permissible under whatever statute is controlling.<sup>17</sup> Here, it’s hard to make a good faith argument that federal law does permit banning bump stocks through regulation.

It’s up to Congress to address this public safety threat. As ATFA’s president explains, bump stocks and similar devices could be regulated by ATF if Congress allowed the agency to regulate “multi-burst trigger activators.”<sup>18</sup> But right now there is no law that grants ATF the authority to do this.

Congress has several legislative options for addressing these dangerous devices including banning them outright. A handful of bills have been introduced that would accomplish this goal independent of any agency action. In the Senate, Senator Dianne Feinstein has introduced the “Automatic Gunfire Prevention Act,” which would outlaw the importation, sale, manufacturing, transfer, or possession of any device, attachment, or accessory designed to accelerate

the rate of fire of a semi-automatic rifle.<sup>19</sup> In the House, bills seeking the same outcome have been introduced. One, introduced by Congressman David Cicilline (D-RI), is identical to Senator Feinstein's bill.<sup>20</sup> Another, a bipartisan effort with similar language, was brought forth by Congressmen Carlos Curbelo (R-FL) and Seth Moulton (D-MA). With bipartisan support for banning these devices, and even the normally intransigent NRA suggesting that they are a problem, Congress has no excuse for inaction.

## Conclusion

While gun safety legislation is usually politically polarizing, banning bump stocks is not. In fact, according to a NPR-Ipsos poll conducted in the wake of Las Vegas, more than eight in 10 Americans favor outlawing devices that allow gun owners to modify semi-automatic rifles to mimic the fire of automatic weapons.<sup>21</sup> A similar poll conducted by Quinnipac also found that an overwhelming number of Americans support a bump stock ban.<sup>22</sup> Congress, not ATF, must be the ones to act to protect Americans from another Las Vegas-style massacre. It's up to them to ensure that bump stocks, devices which are specifically designed for mass casualty and harm, are not readily available in cities and towns across our country. There is no excuse—Congress must act now.

### TOPICS

**GUNS** 81

### END NOTES

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