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Senate Judicial Proceedings Committee

**SB 958 - Criminal Law - Untraceable Firearms (“Ghost Guns”)**

Senate Bill 958 is a mechanism to plug one of the last remaining background check loopholes for firearms in Maryland. This home-made untraceable firearm or “Ghost Gun” bill does much more than ban 3D printed guns that can avoid detection. Ghost Guns are used in crimes throughout Maryland and across the county, because they are untraceable and don’t require a background check to acquire.

There is no reason to lawfully permit functioning guns to be assembled without requiring a check for lawful ownership. We often are told at these hearings that “guns don’t kill people, people do,” but the people who want ghost guns to avoid a background check should be people of concern. Allowing people to access untraceable guns without a background check enables crime and makes it more difficult to solve crimes after the fact. With the Governor calling for action to fight crime, and the rise of MS-13, SB958 is a necessary tool to address both concerns.

Without getting too technical, the 80% rule for lower receivers makes it too easy for individuals to manufacture guns without serial numbers, while also bypassing a background check. There are videos and kits to help you finish the gun at home. Perhaps these hobbyists need a greater challenge and we should lower the 80% threshold or require 80% finished guns to have a serial number attached to them. Until the federal government comes to their senses, we can at the very least regulate background checks at the state level. If you were to buy a car that was 80% complete and finished it in your garage, you would still need a license to drive it, as well as insurance and registration. This is no different, except one can complete a gun with little prior skill, and working on new cars has gotten very complex.

The Undetectable Firearms Act of 1988 already makes 3D printed guns that are “undetectable” illegal under federal law. This bill adds a state crime that covers similar devices. 3D printed guns are a subcategory of ghost guns if they are not marked with a serial number, but they can also be considered “covert” guns if they are constructed to be difficult to detect with a metal detector. The dangers of these devices are mostly on the horizon, but that is where we stand, and a state prohibition is sensible

with the rise of this new technology. We can never fully remove the danger of access to these devices, but we can use criminal and civil penalties to discourage these devices from being sold and assembled.

Ghost Guns are found everywhere, but in Maryland many jurisdictions just don't track the collection of ghost guns from crime scenes. As a comparison metric, however, in California, 30% of guns seized at crime scenes are ghost guns. We likely have similar numbers in Maryland because ghost guns proliferate as a way to subvert background checks in states with relatively strong background check laws. These laws however are meaningless if they can easily be subverted, both legally and illegally. Not all criminals are violent, but all violent criminals are dangerous, and with access to guns without background checks, we allow them to be more dangerous than they would be with less access to firepower. We have disqualifying crimes to own guns and gun tracing techniques to protect Marylanders, and these protections shouldn't be nullified because someone happens to have the technical skill to follow a kit's instructions or has access to YouTube.

Gangs like MS-13 like these guns because they can swap barrels and other features of the guns to make them harder to trace. Parts can be discarded and replaced cheaply online to avoid ballistic matches. These groups have been known to kill with different methods, and while we can't prevent them from buying machetes, we can help prevent them from buying gun parts online with this law. If our most dangerous gangs have a harder time getting disposable guns, that is a win for Maryland.

Ghost guns include handguns and assault rifle type firearms, and they have also been used in mass killings, such as the Tehama and Santa Monica shootings that took the lives of 12 people. The Saugus shooter was a minor who was not legally able to possess any firearm under California law. The shooter in Santa Monica constructed the gun after he failed a prior background check. He then used the gun he assembled to kill five people and injured 4 others. Two years prior to the killing, California's background check laws blocked his purchase based on a mental health concern and a prior run-in with police. There, the background check was circumvented because he bought parts from other states online and assembled the assault type gun himself.

These are several examples of ghost gun killers, that within Maryland, would not currently be prosecuted for mere possession of the weapon, unless the gun was sold to someone else. There are some crimes on the book that would make unlawful possession subject to serious penalties, but if our law allows them to make killing machines, we haven't used our tools to protect our citizens and reach a peace and justice equilibrium. Liberty is essential as well, and we don't want to infringe upon any rights. But allowing the exception to swallow the rule, as we do with Ghost Guns, favors chaos not liberty.

We should allow law enforcement to prosecute individuals who possess these guns and have not undergone background checks, period, full stop. If you are able to pass a background check, you should undergo one to acquire or build these guns, if not, you should not have deadly firearms. We can work out the nuances of this bill, and find a reasonable solution to a growing threat. To further close a loophole to background checks, and to better be able to solve violent crimes, we must pass a bill to regulate Ghost Guns. We are willing to work with everyone to do so. This bill should not wait another year to become law, in one form or another.

For these reasons, I respectfully request a favorable report on SB 958.