

Daniel J. Carlin-Weber
HB638 – UNF
Judiciary Committee
3/1/2021

I am a firearms instructor and advocate of responsible firearms handling and ownership. Currently, I am certified by the Maryland State Police as a Qualified Handgun Instructor and regularly teach the course necessary to receive the Handgun Qualification License (HQL). I'm also a Utah Concealed Firearm Permit Instructor, and NRA Range Safety Officer and Basic Pistol Instructor. Since 2016, I have instructed Marylanders from all walks of life on how to safely operate firearms and the responsibilities that come with their usage. I come before you today to urge an unfavorable report of House Bill 638.

HB638 and its Senate counterpart, SB624, are the first bills brought before the General Assembly that do not immediately threaten current owners of homemade guns with jail for possessing items Marylanders have always been able to make and keep. Rather, the bills allow current owners to keep their privately made arms so long as they follow a number of requirements by January 1st, 2022. Any private gun making after that date could be penalized without first going through a Federally Licensed dealer with a civil violation for a first offense and “unfinished firearms receivers” cannot be brought into the state short of them being serialized and handled as if they were “Regulated Firearms” under Maryland law. So-called “ghost guns” and the parts for them could not be lawfully created or possessed after this date.

While it's important that this bill does attempt to create a legal pathway for current owners of homemade guns to keep them, they still face a complicated series of regulations that will be difficult and cost-prohibitive to follow for most people. Violations are costly whether the violation

was intended or not and the laws are ripe for selective, discriminatory, and abusive enforcement. The bills also unnecessarily target “undetectable firearms” and would criminalize the current possession “covert firearms,” of which are legal items currently possessed within the state, and highly regulated under the National Firearms Act (NFA) as “Any Other Weapons” (AOW). HB638 should be withdrawn or at minimum be made more accommodating so the typical Marylander can comply without facing financial or legal ruin.

Making one’s own gun has always been legal in the United States and indeed, Maryland. An owner must not be legally prohibited from firearms possession and the gun itself must be in compliance with federal, state, and local laws. The manner of production has not mattered, whether it be via welding metal parts together, removing metal from an unfinished receiver (i.e., common 80% receivers), or by any number of possible methods. As a result, there are an untold number of homemade firearms in Maryland. There lacks an all-seeing authority with the ability to peer into every person’s basement, garage, or kitchen and consequently, these items are not accounted for in any database, nor have they ever been required to be reported to an agency within the state merely because they were created. Serialization of these privately made firearms has also never been required under Maryland or Federal law.

Though the bill does allow Marylanders to keep guns they may have made, they must engrave them in a *very* specific manner. While some homemade gun owners do voluntarily serialize or otherwise mark their own guns with something identifiable in the event of loss or theft, any of these marks are inadequate unless they comply with the *very strict* and lengthy requirements put forth in the bill. A unique serial number, the gun’s caliber, a model, the country of origin, and the owner’s full name and city must be engraved into the receiver or frame in accordance with federal

regulations. See *Firearms - Guides - Importation & Verification of Firearms, Ammunition - Firearms Verification Overview, Bureau of Alcohol, Tobacco, Firearms, and Explosives*, <https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-ammunition-firearms-verification-overview>. Complying with these requirements is in many cases much more difficult than making the gun itself. This sort of work usually requires very expensive CNC (computer numerical control) milling or laser engraving machines capable of accurately meeting the requirements of § 5-703(a)(1). Unless the owner has this kind of hardware on their own, they'll need to seek the services of a gunsmith (or a Federally licensed manufacturer or importer after 1/1/2022). Not all gunsmiths offer engraving services and those that do are free to charge whatever price they set. Every personally made firearm made by a citizen would need to be engraved in this manner at their expense and with prices being variable and gunsmith availability not guaranteed, these mandates will prove burdensome and impractical.

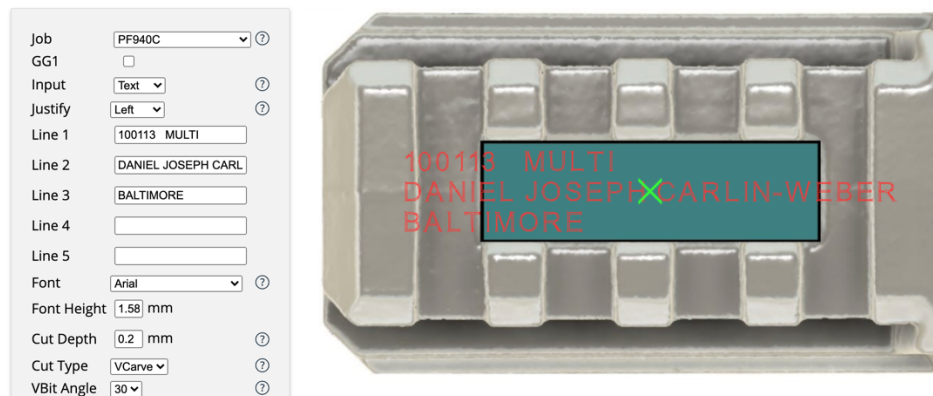


Fig. 1- Depiction of firearm markings made to the specs required by HB638 on the engraving plate of a Polymer80 frame. The green rectangle represents the plate which is made of steel and is flat. The surrounding ribs comprise an accessory rail and are made of plastic.

Those with long names or who live in cities with long names also find themselves in trouble when they try to comply with HB638's marking mandates. My full legal name is too long for the engraving plate on a popular Polymer80 receiver, for example (fig. 1). Since the bill defers to federal

regulations for engraving, which places text height at a minimum of 1/16th an inch, there is no way for me to cram my entire name onto the plate and remain in compliance with the law. Many unfinished receivers typically have a plate of similar size to the Polymer80's and these owners would find themselves facing the same issue. As one might imagine, I am not the only Marylander with a long name. That HB624 requires a full legal name and city is wholly unnecessary when a simple number could suffice. The bill requires a personal log be made anyway and it is a crime in Maryland to fail to report a lost or stolen handgun or regulated firearm within 72 hours. See Maryland Public Safety Article § 5-146. California likewise requires that makers of their own guns mark them, but only with a serial number issued by their Department of Justice. *Regulations: Unique Serial Number Application (USNA) Process*, State of California Dept. of Justice, <https://oag.ca.gov/firearms/regs/usna>.

It is also worth noting that the proposed language in the bill requires at least **53 years-worth** of guns be serialized and engraved in only a handful of months, as firearms made prior to 1968 would be exempted from the bill. This is a very short window of time and it is doubtful the network of capable gunsmiths in the state would be able to meet demand, especially when considering that they have had their hands very full with regular gun sales and demand is not relenting in 2021. See *Issue Papers 2021 Legislative Session*, Maryland Department of Legislative Services, <http://dls.maryland.gov/pubs/prod/RecurRpt/Issue-Papers-2021-Legislative-Session.pdf> (p. 249). Also see *Gun Sales Rise During Civil Unrest, Pandemic*, News4 Washington, January 15, 2021, <https://www.msn.com/en-us/news/us/gun-sales-rise-during-civil-unrest-pandemic/ar-BB1cLQNb>.

Not only does HB638 require that completed privately made firearms be marked, but it would also be necessary to mark any *unfinished* frames or receivers in the same manner. These are merely just parts in such a form and carry little legal significance for someone who is not legally barred from possessing firearms. They are readily available from any number of sources, including from every surrounding state and from numerous websites. It does not take much imagination to see how easily a bad actor working within a police department could easily obtain these devices and perhaps plant them on someone they wish to make a suspect. As chronicled in *I Got a Monster: The Rise and Fall of America's Most Corrupt Police Squad* by Brandon Soderberg and Baynard Woods, Baltimore's Gun Trace Task Force (GTTF) planted firearms and even BB guns on supposed suspects under false pretenses to initiate an arrest or justify violence against those in communities already reeling from decades of police misconduct. In the time preceding the GTTF's unravelling, they were *praised* for getting "illegal" guns off of the street despite the crimes they were committing in order to do so. HB638 and any similar laws that attack the mere possession of items only provides more avenues ripe for exploitation by similarly bad actors.

In another part of HB638, § 5-117.1 would be updated to require that anyone purchasing an "unfinished frame or receiver" after January 1st, 2022 also possess a valid Handgun Qualification License (HQL). Currently, the HQL is only needed for acquiring a **handgun**. Though handguns are "regulated firearms" under current law, there are other items considered "regulated firearms" that do not require the HQL to obtain because they are not handguns. Unfinished frames and receivers can be built into long guns, which are not regulated by Maryland law or by the State Police. These items are also *not* firearms under federal law and as a consequence, the MSP could not initiate a federal background check via the National Instant Background Check System (NICS). Requiring not only that someone comply with all of the marking and registration

requirements for unfinished firearms and receivers already detailed previously AND that they have the HQL serves as nothing more than a deterrent against a Marylander working to comply with the law and does nothing against someone who has little to no respect for it.

There are other problems with HB638. Under the proposed § 5-702(1), any firearms made prior to 1968 are exempted from the new requirements, presumably because commercial firearms manufacturers were not mandated by federal law to issue serial numbers for guns until the enactment of the Gun Control Act (GCA) in 1968. However, the language in the HB638 does not reflect that the GCA was enacted on October 22nd, 1968. See *Gun Control Act of 1968*, <https://www.govinfo.gov/content/pkg/STATUTE-82/pdf/STATUTE-82-Pg1213-2.pdf>. It is unclear how an investigator, or even the possessor of the gun itself is supposed to know the difference between a homemade gun made in 1966 and one in 1972, let alone one made in September of 1968 and November 1968. The legislation should at least reflect the proper date of enactment, not merely the year it went into effect. Going further, § 5-706(A)(2) describes items that are currently strictly regulated by the National Firearms Act of 1934 (NFA) (<https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/48/STATUTE-48-Pg1236.pdf>) as “Any Other Weapons” (AOW). Essentially, if a firearm is disguised as or in the shape of something one would not recognize as a firearm, it is an AOW. Section 5-706(B)(2) bans the possession of these items despite that they are legal to possess under federal law so long as the requirements of the NFA are followed. Current owners would be dispossessed of an AOW-type firearm they legally own without just compensation should this language become law. Public safety is not advanced by criminalizing these *extremely* law-abiding individuals.

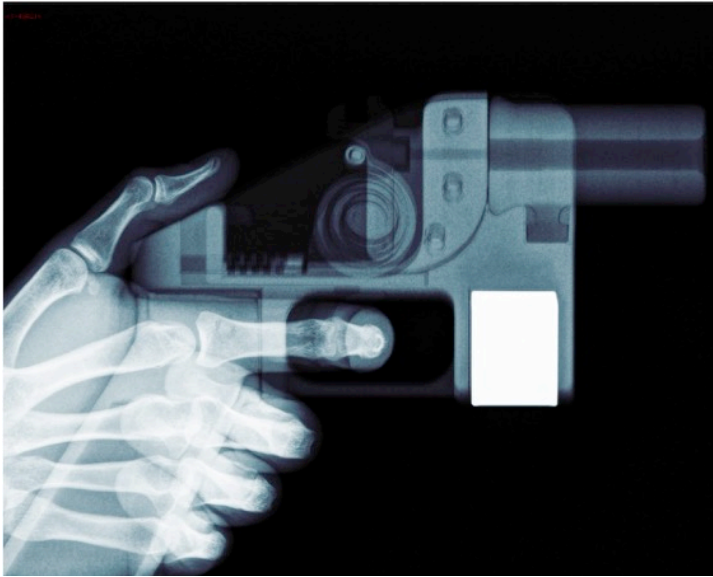


Fig. 2- Liberator pistol as viewed by an x-ray. Does this look undetectable to you?

The legislation also seeks to ban the possession of “undetectable” firearms, but this too does not advance public safety as these items do not pose a threat to defeating devices designed to catch contraband like firearms. Purely plastic firearms and potentially undetectable firearms fall under the Undetectable Firearms Act of 1988

(<https://www.congress.gov/bill/100th-congress/house-bill/4445>). For about 33 years, at least 3.7 ounces of steel must be present in a firearm so that it can be picked up by an x-ray machine or metal detector. 3D-printed guns have been the target of numerous news articles and debates for the potential that they could bypass security checkpoints at airports or elsewhere, but they **cannot** be legally made without that steel today. Even the infamous Liberator pistol (fig. 2) has a space in its design to accommodate a 6 oz block of steel and the instructions explicitly warn the maker to insert the steel block before completion so as to not break federal law. Even without the steel block, an x-ray or metal detector would still detect the firing pin (a common nail in the Liberator’s case), any ammunition, and the shape of the design itself.

I understand the desire to make Maryland a safer place for residents and that legislators have a duty to represent their constituents’ best interests, however, this legislation does not contribute in the slightest to public safety and makes many of the same mistakes of legislation submitted in prior years on this topic. Individuals determined to harm others will still find the

means in order to do so unabated despite this legislation while honest and innocent Marylanders only face more burdensome and confusing laws that do little more other than to punish them for having sought privacy. Prosecutors in Maryland already have a plethora of criminal statutes at their disposal for targeting those bringing harm against others in our communities with illegally possessed or carried guns (see MD Code, Public Safety, § 5-101(g), § 5-133(b), and § 5-205(b), just to name a few). Complying with the painfully intricate and tedious gun laws in Maryland that currently exist already leaves responsible people at risk of inadvertent law breaking. In spite of this, the State again demands that gun owners shoulder more burdens entirely on their own. They do not need more potential pitfalls.

I urge an unfavorable report.



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