



February 15, 2022

WRITTEN TESTIMONY OF Michael Burke, MSI member, IN OPPOSITION TO HB 425 and SB 387

I am a Member of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. My associates and I seek to educate the community, including the Maryland General Assembly, about the right of self-protection, the safe handling of firearms, and the responsibility that goes with possessing and/or carrying a firearm in public.

My background includes over 30 years of military service with the US Army and Maryland National Guard as a Military Police officer, Drill Instructor, and Counterintelligence Agent; over 20 years as a Criminal Investigator/Special Agent with numerous Federal law enforcement agencies. I am an expert in Maryland firearms law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA pistol instructor. I appear today as a voter and member of numerous other 2nd Amendment advocacy organizations in opposition to both **HB 425** and **SB 387**.

The Sponsors of these bills, concerning “Public Safety – Untraceable Firearms,” requiring serial numbers for Privately Made Firearms (PMF) fear the existence of “untraceable firearms” in the hands of private citizens. The sponsors, and Brian E Frosh, Attorney General of Maryland, and their supporters, fail to realize or understand that “serial numbers” do not and cannot prevent violent crime.

There is a false belief that crimes involving firearms can somehow be deterred, limited, prevented or solved by the use of “Serial Numbers” engraved on inanimate objects made of wood, metal, or plastic/polymer. That is absolutely and completely FALSE.

As noted in my introduction, I have personally been involved in the investigation of various crimes in and around the Baltimore-Washington Metropolitan region, as well as crimes in other parts of the nation, and overseas since 1976. I’ve handled investigations, arrests, and the prosecution of thousands of suspects involved in violent crimes against persons, property and the State.

In NONE of those thousands of cases was anyone ever convicted of the charges (homicide, rape, attempted murder, armed robbery, aggravated assault, destruction of property, carjacking, etc.) has a “serial number” been instrumental in obtaining a conviction. I’ve never had (or heard of) a case “solved” by a “gun trace” conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE). Gun traces, in my experience, are

futile, useless, and irrelevant to a criminal investigation and prosecution. The accomplished and talented prosecuting attorneys I've worked with over the decades won't even look at a "gun trace" report (if one happens to be provided) because they have absolutely ZERO evidentiary value in front of a Jury.

Firearms Registration, something that Maryland has required for "regulated firearms" (aka handguns), doesn't even require a Serial Number (SN) on Maryland State Police Form 77-R when a citizen applies for "registration." MSP allows that field to be left "blank" when no SN is known. (An FFL dealer **is** required to provide MSP with the make, model and serial number when a Transfer is approved.)

If these bills PASS, they will have absolutely ZERO effect on criminal behavior in the State of Maryland. There are no checkpoints, gates, barriers, or walls that separate Maryland's twenty-three counties and Baltimore City from the outside world. Organized and individual criminals, people who operate the black market (selling drugs, handguns, counterfeit NFL products, sex-slaves, and other prohibited materials) will still be unrestricted in moving about the country and across international borders with their goods.

Children (aged 18 months to 18 years) will still have unlimited access to alcohol, drugs, partially complete firearms receivers, complete and functional handguns, shotguns and rifles, as well as ammunition. They will continue to have access to thousands of tools (baseball bats, golf clubs, kitchen knives, screwdrivers, skateboards, common rocks, pieces of lumber) that lack serial numbers and any legislative controls. These myriad and common tools are used daily to commit innumerable crimes against persons – and no-one in the General Assembly has done anything to prevent them.

Finally, we also know that existing laws regarding handguns are ineffectual, meaningless, and ignored by children and adults over 18. The young men who committed shootings recently in Montgomery County – notably at Col. Zadok Magruder High School, and the Plum Gar Community Center – were already violating half-a-dozen gun laws. Neither had an HQL (required by the 2013 Firearms Safety Act). Neither was compliant with the 1968 Gun Control Act. Neither had a Handgun Permit issued by MSP.

Neither of these despicable shootings were prevented by the Gun-Free Schools Act of 1994 (GFSA), despite numerous signs posted all around the County and State.

- The bills fail on another critical salient point- Federal law does not require background checks for incomplete lower receivers (even if they possessed Serial Numbers). It's simply not possible for a legally operating FFL (dealer) to ask the FBI or Maryland State Police to do a "background check" on a partially completed lower.

This proposed legislation requires that anyone who owns the vaguely defined “unfinished frame or receiver” to serialize these ‘non-guns’ at home. The bill REQUIRES owners to request a federally licensed dealer, importer, manufacturer, or other federal licensee authorized by federal law to "provide marking services." The bill requires that such entities mark firearms with a serial number that consists of the first three and last five digits of their FFL number, plus "another number." Inscriptions must be within compliance with the federal rules that define depth, height, and method. The bills don't require that anyone actually perform this service. Potential engravers are able to charge whatever they'd like. Engraving to federal standards (as required by the bills) requires skill and expensive machinery and few FFLs may have either the desire or the capability to perform this task.

I hold a Federal Firearms License holder – type 03, Collector of Curios and Relics. Can anyone explain why I cannot engrave a serial number of my own choosing on a firearm I have personally built, in my own garage, basement shop, or on my deck?

This bill specifies that the serial number consists of 8 pre-ordained numerals, depending on my own FFL number. That leaves very little space in the pre-marked metal portion of a “Glock” designed lower receiver- my factory Glock pistol only has 7 characters. I own a post-1968 built Beretta handgun with only 4 characters in it’s BATFE approved serial number. Another firearm I owned had only 7 characters – “AS07358” was engraved on the receiver. Yet another firearm I recently considered purchasing had but 6 numerals in its legally engraved serial number- would this bill require it to be taken to a specialty machine shop to add 3 more digits (defacing the original SN, a federal crime) to become lawful to possess in Maryland?

How large will these mandatory (only in Maryland) serial numbers become? Let’s assume that one FFL with appropriate machinery is required to mark all PMF’s with those obligatory 8 digits. My shop would always start with “012” and end each serial number with “34567.” The first of my markings, for simplicity, would look like this –

“012-A-34567.”

Assume there are 11,000 customers who have manufactured their own firearms in my county since January 1969, the beginning of the bill’s mandatory start date (the Federal requirement for serial numbers only began in December 1968, as you’ve heard in other testimony).

I’d have to create, and record, 11,000 unique serial numbers in my “register.” That means a total of 11,008 characters engraved on the last PMF brought to my shop. That’s a huge “serial number” to place on a single handgun measuring only 4-6” in length.

Example -one customer would receive a serial number like this -

012- ABCDEFGHIJKLMNOPQRSTUVWXYZ-34567.

Mechanically, how do we (FFL holders) fit such huge numbers on these hundreds of thousands of PMF's?

Maryland only uses 7 characters for standard license plates – for example, **01 AB 2345**. Yet Maryland law does NOT require every licensed motor vehicle dealer to issue a license plate with the first three characters derived from their MVA Dealer's License, or end with the last 5 characters from that same MVA issued Dealer's License.

Here is an illustration of a typical “unfinished lower receiver.” Circled in blue is the metal plate pre-installed in the **non-firearm** handgrip that is intended to be engraved with a serial number at the user's wishes. It is capable of accepting approximately 6 to 7 characters (numerals, letters, etc.) of the size and shape commonly meeting BATFE standards.



Here's a closer look: the space available would fit “012-34567”



Let's assume my FFL number is "012-A-16-BCD-9967-34567".

PMF's that I would then mark would all be engraved with "012-34567."

Where's the room for any other letter, numeral, or special character?

Hence, the requirement for **no less than** 8 special characters is absurd, meaningless, and without purpose.

In the real world, millions and millions of firearms (handguns, shotguns, rifles, machine guns, cannons, howitzers, etc.) serial numbers tend to be brief, and intended to fit in the small space available on a receiver, bolt, or other part.

Example: 4 digits on a rifle
built in Tula, USSR, 1940.
(SN 06242)

4 digit serial number on a P-38 pistol
Built in Germany, 1942 (SN 5448)



There simply is no historical or empirical reason to fix the SN of a PMF lower receiver at a mandatory and forever expanding number of characters. 8 digits? 18 digits?

We have over 2 million registered automobiles in Maryland today, yet we don't require each vehicle to have a license plate that exceeds 7 digits or characters. Montgomery County alone has over 794,000 vehicles – how is that possible to have that many different license plates with 3 to 7 digits?

One of the most commonly available handguns are built by GLOCK. Since the 1980's, more than 20 MILLION have been produced (factories in the US, Austria, Taiwan, Russia, Iran and (unlicensed) in China). Somehow, Glock doesn't need 8-20 characters in their SN's.

For your review, here is just one page (1 of 35) on a website listing Glock Serial Numbers

(Downloaded from : <https://stakhaus.com/> 15 Feb 2022 @ 23:10)

Glock Serial Number Research Project

the five most recent additions!

SERIAL #	MODEL	BORN ON DATE	NOTES
BVXS**	G-17 GEN 3.0	2021-12-08	New Gen 3 G17 purchased Jan 2022 in CA
BVXS**	G-17 GEN 0.0	2021-12-08	
RYN933	G-23 GEN 3.0	2021-12-28	Was fully built
RYN933	G-23 GEN 3.0	2022-01-30	
FFV936	G-20 GEN 3.0	2003-03-21	Bought from LEO through Gunbroker.com

Found 17833 records

SERIAL #	MODEL	BORN ON DATE	NOTES
***BPD	G-22 GEN 2.0	0000-00-00	Bossier City PD 3 Pin Gen 2
00****	G-17 GEN 2.0	0000-00-00	
00098*	G-17 GEN 0.0	1997-11-29	
0009MIA	G-23 GEN 0.0	0000-00-00	City of Miami police stamped
001US*	G-17 GEN 0.0	1993-12-02	
0022US	G-23C GEN 1.0	1985-00-00	
00244*	G-17C GEN 3.0	2014-12-11	Sons first pistol
002866	G-19 GEN 3.0	2021-03-01	
00453DPD	G-22 GEN 2.0	0000-00-00	
0111120TPD	G-22C GEN 0.0	0000-00-00	Tulsa police on right side of slide
01118DPD	G-23 GEN 2.0	0000-00-00	
01165DPD	G-23 GEN 2.0	1993-02-02	Detroit Police Department.
02164DPD	G-22 GEN 2.0	0000-00-00	`Detroit Police Department`

Reviewing these records, Senators and Delegates may note that Glock – the manufacturer of MILLIONS of handguns- frequently limits the Serial Number to 4 to 7 characters.

Some handguns built for Law Enforcement sales add an identifier at the request of the purchasing agency (MIA, DPD, etc.)

On Page 6 of SB 387 (lines 1-3)

The proposed legislation requires each FFL creating and engraving these arbitrary and capricious “Serial Numbers” to –

RETAIN RECORDS FOR ALL FIREARMS IMPRINTED IN ACCORDANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE SALE OF A FIREARM.

Help me, a subject matter expert in firearms, understand what this means. Maryland isn't giving us details on how to record something that isn't a sale, or a purchase. There simply isn't a federal law, guideline, or regulation on dealing with a firearm NOT purchased by the FFL, not SOLD by the FFL, and not MANUFACTURED by the FFL.

Here's where it gets interesting for a PMF-

The firearm acquisition information in an FFL's records (bound book) must include:

Manufacturer and Importer	- NONE
Model	- NONE
Serial Number	- 012-A-34567
Type	- PMF
Caliber or Gauge	- NONE
Date Acquired	- N/A (the PMF built by someone else is never acquired)
Name and address of individual received from	- NONE (the PMF was never legally “received” without a bill of sale)

A partially manufactured lower receiver has no known manufacturer.

A partially manufactured lower receiver has no Model number.

A partially manufactured lower receiver has just acquired a 9 to 9,0000 character “serial number” that isn't recorded anywhere else on the planet.

A partially manufactured lower receiver has no caliber or gauge.

A partially manufactured lower receiver has no “date of manufacture” because it's not been completed yet.

In summary: this bill purports to force an unknown number of Maryland residents (more than 10,000, less than 6 million) to engrave or mark incomplete receivers with serial numbers that still can't be traced to anywhere or anyone.

Let's assume, *arguendo*, that a PMF is dutifully engraved with a number (say, 012-A-34567)

It's found in Wicomico County, 15 August 2030, on the side of Rt 50 half-a-mile from the scene of a shooting incident that occurred 12 hours ago. The Sheriff's Office requests the assistance of the Maryland State Police crime lab in Pikesville, and the 'recovered' PMF is shipped off forthwith. In about 12 weeks (due to the chronic backlog), the crime lab determines that there are no significant ballistic clues found during analysis, no DNA, and no fingerprints. However, the lab notes that the "serial number" 012-A-34567 is not recorded anywhere in State, federal, or international firearms databases.

A trace request is sent to the BATFE Headquarters in Washington, DC, 15 weeks after this shooting incident – with no suspect description and no other identifying details other than the fact that the item is a PMF, and the "serial number" appears no-where in any known database. The "Gun Trace" abruptly ends, as the BATFE is unable to send out 20 agents to query 300 FFL holders who may or may not have engraved that "serial number" on the PMF.

Alternatively – and unlikely- let's consider that an agent does visit my home and asks if I was familiar with the number "012-A-34567." I show him my "records" which show -

Manufacturer and Importer - NONE
Model - NONE
Serial Number - 012-A-34567
Type - PMF
Caliber or Gauge - NONE
Date Acquired - N/A
Name and address of individual received from - NONE

I mention, in a spirit of cooperation, that the number in question was for a partially manufactured frame sometime in the fall of 2022, 8 years before the shooting in question. The incomplete frame was sold to a dealer in Virginia, December 2022, to comply with the statute banning possession after January 2023. That out of state dealer has no records, because NO OTHER STATE requires record keeping of incomplete lower receivers.

The gun trace ends, like 99.9% of all gun traces, with absolutely no evidence that could identify who pulled a trigger that nobody saw.

Serial numbers cannot solve crimes. Serial numbers cannot prevent violent crimes. Serial numbers cannot prevent thefts, burglaries, robberies, or any other event where a lawfully owned firearm is taken from its owner.

Serial numbers cannot prevent murder, rape, robbery or other violent assaults.

Additional facts for consideration: more than 150 million firearms in the United States were manufactured before 1968 (the year Serial Numbers were required by law).

Less than 5,000 “Personally Made Firearms” (PMF) are known to exist in Maryland.

Less than 100 have been proven to be used in a violent crime.

From Krouse, William J. 2012 ‘How Many Guns Are in the United States? - Number.’ *Gun Control Legislation*, pp. 8-9. Washington, DC: United States Congressional Research Service. 14 November

The National Institute of Justice (NIJ) reported in a national survey that in 1994, 44 million people, approximately 35% of households, owned 192 million firearms, 65 million of which were handguns (a). Seventy-four percent of those individuals were reported to own more than one firearm (a).

According to the ATF,* by the end of 1996 approximately 242 million firearms were available for sale to or were possessed by civilians in the United States (b). That total includes roughly 72 million handguns (mostly pistols, revolvers, and derringers), 76 million rifles, and 64 million shotguns (b). By 2000, the number of firearms had increased to approximately 259 million: 92 million handguns, 92 million rifles, and 75 million shotguns(c). By 2007, the number of firearms had increased to approximately 294 million: 106 million handguns, 105 million rifles, and 83 million shotguns (d)

By ... 2009, the estimated total number of firearms available to civilians in the United States had increased to approximately 310 million: 114 million handguns, 110 million rifles, and 86 million shotguns (e). Per capita, the civilian gun stock has roughly doubled since 1968, from one gun per every two persons to one gun per person.

a) Jens Ludwig and Phillip J. Cook, *Guns in America: National Survey on Private Ownership and Use of Firearms*, NCJ 165476, May 1999, <http://www.ncjrs.org/pdffiles/165476.pdf>.

b) U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, *Commerce in Firearms in the United States*, February 2000, pp. A3-A5.

c) U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, *Firearms Commerce in the United States 2001/2002*, ATF P 9000.4, April 2002, pp. E1-E3.

d) U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), *Annual Firearm Manufacturing and Export Reports for 2002 through 2007*, along with firearms import data provided by the ATF Firearms and Explosives Import Branch.

e) U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *Firearms Commerce in the United States 2011*, August 2011, pp. 11, 13, and 15.