

## **Testimony for Unfavorable Finding for SB0387 of 2022**

Earle A. Sugar  
14 February, 2022

SB0387 is one of those bills that, upon close reading, reveals a lot of potentially severe, unintended impacts on otherwise law-abiding Marylanders, while doing little to stop the problem it purports to be fighting. While I do not argue that persons prohibited by law from possessing firearms should not be able to access them, there are already both Maryland and Federal laws providing severe criminal penalties for mere possession by a prohibited person. This bill, as written, sets its sights upon firearm hobbyists like me who machine their own customized firearms for otherwise lawful sporting use rather than those who are trying to illegally obtain a firearm to commit violent crimes.

There are four key problems with this bill:

1. The components banned in Maryland would still be readily available in other states and via interstate commerce, hence it would merely inconvenience criminals who already intended to violate their prohibited person status. It will, however, be an absolute ban on non-harmful hobbyist activities. What this bill aims to do is similar to trying to end underage drinking by banning adult possession of home brewing equipment.
2. It provides no lawful mechanism post-2022 for hobbyists to create firearms for lawful use, including my particular hobby interest, replicas of antique cartridge firearms, which do not fall under the definition of “antique firearm” as defined in § 4-201 of the MD Criminal Law Article. Fabricating a replica receiver for an 1870’s-vintage black powder cartridge single-shot target rifle design would result in multiple years in prison. Is this the sort of activity this law is intended to thwart? Even California’s homemade firearms statute creates an ongoing mechanism that allows future fabrication.
3. The grandfathering period for currently owned custom firearms is severely shortened, and with the limited classes of authorized classes of FFLs who own appropriate engravers, it will be very difficult for current owners of customized, hobbyist-built firearms to obtain the engraving services within the period allowed. Commercial manufacturers and importers are not set up to provide retail engraving services. Why can’t every class of Federal Firearms License holder be allowed to do the engraving, such as Federally licensed gunsmiths and dealers to 27 CFR 478.92(a) technical standards rather than defining a proprietary Maryland marking standard?
4. The Federal Bureau of Alcohol, Tobacco and Firearms (ATF) is in the process of rewriting regulations related to privately-fabricated firearms. It is quite possible that this bill will result in conflicting marking requirements that will make compliance with both MD and Federal regulations for existing owners impossible, especially given the short timeframe for the grandfathered markings to be obtained from commercial providers who will have little time to develop compliant business and technical processes. There is little resale market for homemade firearms, making sale out of state as a means of disposal unrealistic. The end result will be a defacto regulatory taking of potentially millions of dollars of personal property owned by Maryland firearms hobbyists. There is also significant confusion about the legality of transferring hobbyist-made firearms, so owners who are not able to comply with the markings law in the time required will likely have to destroy their vested personal property at a complete loss.

The requestor of this bill, Attorney General Brian Frosh, has indicated in the past that he disagrees with the fundamental premise of the Supreme Court's *Heller* decision that firearms ownership is an individual, rather than a collective, right. Draconian bills like SB0387 appear to be a pattern of attempts by the AG and like-minded people to do an under-the-radar defeat in detail of the SCOTUS *Heller* and *McDonald* rulings by creating significant regulatory burdens and severe, ambiguously defined, legal hazards for obtaining and possessing firearms for otherwise lawful self defense and sporting use.

Therefore, for all the reasons stated above, I am opposed to this bill and strongly urge the Senate Judicial Proceedings Committee to issue an unfavorable report for Senate Bill 0387 of 2022.

Very Respectfully,  
Earle A. Sugar  
Davidsonville, MD  
easug@rcn.com