

SB 387 -Support-UULM-MD Jan Bird, MD.docx - Google

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Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 387 - Public Safety - Untraceable Firearms

TO: Senator William C. Smith, Chair, and Members of the Judicial Proceedings Committee

FROM: Janice Bird, MD
Unitarian Universalist Legislative Ministry of Maryland.

DATE: February 17, 2021

We, as Unitarian Universalists, believe we all belong to an interconnected community responsible for the safety and well-being of everyone. We have seen how gun violence affects all of us, as the effects of one event ripples out into the community.

So why would anyone want to allow untraceable guns, including 3D printed guns and firearms assembled from kits without serial numbers to exist? They cannot be traced and can otherwise circumvent Maryland's regulated firearm registry.

We should all be able to agree that common sense gun laws save lives! This bill is a means to keep criminals and domestic abusers from gaining access to untraceable "ghost" guns.

Some of you were Maryland legislators when the Firearms Act of 2013 was signed into law. These measures have been effective in decreasing gun violence without compromising the rights of law-abiding citizens.

We ask our legislators to stand on the side of love and justice and vote for this bill and others that will strengthen Maryland's gun violence prevention laws to further limit the ability of dangerous and irresponsible individuals access to firearms.

The measure before you today is another tool for law enforcement to protect the people from gun violence. We urge a favorable report.

Janice Bird, MD

Annapolis, MD

2022-02-16 SB 387 (Support).pdf

Uploaded by: Brian Frosh

Position: FAV

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.
410-576-6584

February 16, 2022

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Brian E. Frosh
Attorney General

RE: SB 387 – Public Safety – Untraceable Firearms – **Support**

Chair Smith, Vice Chair Waldstreicher, and distinguished Members of the Judicial Proceedings Committee, I write to urge you to favorably report Senate Bill 387, legislation I introduced with Senator Lee to prohibit the sale or possession of so-called ghost guns or privately made firearms (PMFs) in Maryland. Ten states and the District of Columbia have passed laws to address unserialized weapons, and it is past time for Maryland to join in.¹

Maryland is facing a gun violence crisis. In an average year, 724 people die and 1,747 are wounded by firearms in our State. Increasingly, “ghost guns,” a fast-growing category of firearms purchased without a required federal background check are involved. Ghost guns are assembled from do-it-yourself kits or with 3D printers and can be easily acquired by those who are legally prohibited from owning a firearm. These PMFs are not stamped with a serial number, making them nearly impossible to trace and depriving law enforcement agencies of an essential tool used to solve gun crimes.

ATF’s current definition of “firearm” does not include the basic components of guns—their frames and receivers—if they are not machined past 80% completion.² In practice, this means that anyone with a credit card and a physical mailing address can buy the key parts of a gun and then drill a few holes to finish it. Buyers are not required to submit to a background

¹ See Giffords Law Center to Prevent Gun Violence: Ghost Guns—dangerous, homemade untraceable firearms—are increasingly being used to circumvent both federal and state gun laws and kill innocent people, available online at <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/ghost-guns/> (noting “Ten States (California, Connecticut, Delaware, Hawaii, Nevada, New Jersey, New York, Rhode Island, Virginia, and Washington) and the District of Columbia have enacted laws to at least partially address the problem of undetectable or untraceable guns.”) (internal citations omitted).

² The Biden Administration published a proposed ATF [rule](#) that would define unfinished frames and receivers as firearms. It is a relief to see federal actions to finally close this gaping loophole. But as with any federal action related to guns, challenges exist: hundreds of thousands of comments on the proposed rule must be addressed before the final rule can be promulgated, and lawsuits will undoubtedly follow.

check, and gun makers, such as industry leader Polymer80, aren't required to apply a serial number or adhere to the basic rules required of traditional gun manufacturers. Corporate gun manufacturers are raking in profits by exploiting this federal loophole, which SB 387 would close.

Ghost guns are popular with criminal populations nationally and locally. In Baltimore, more and more gun crimes are being committed with unserialized ghost guns. [Last summer](#), a Baltimore City narcotics raid resulted in the seizure of fifteen assembled and operational ghost guns and an additional 40 Polymer80 kits. The recovery of ghost guns by the Baltimore Police Department (BPD) has also increased precipitously in recent years. As of November 1, 2021, BPD had recovered 272 ghost guns, an increase from 128 in all of 2020 and just 30 in 2019. Earlier this month, BPD Commissioner Harrison noted that Baltimore police have “seized 31 privately made firearms in 2022, far outpacing last year.”³

Likewise, Montgomery and Prince George's County Police have recovered substantially more ghost guns since they started tracking those figures several years ago. Just last month, a student at Magruder High School shot and critically wounded another student with a PMF.⁴ The numbers will continue to grow across Maryland, with jurisdictions like Anne Arundel County only now beginning to keep statistics on these weapons.

Senate Bill 387 would clarify that unfinished frames and receivers that can be readily turned into functional firearms are firearms and should be treated as such. Section 5-703(a) of SB 387 provides that, “a person may not purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federal licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms.” This provision would functionally close the ghost gun loophole in our state as of June 1, 2022.

Section 5-703(b) bans possession of PMFs on or after January 1, 2023, unless they've been serialized in accordance with federal standards. Anyone who violates the new law will be subject to imprisonment of no more than three years, a fine of no more than \$10,000, or both.

You will hear from a broad coalition supporting SB 387, a comprehensive, common-sense bill to protect Marylanders from this rising threat. Senate Bill 387 provides a workable, common-sense solution to a growing problem that we can no longer ignore. For all of the foregoing reasons, I urge a favorable report on SB 387.

cc: Committee Members

³ CBS Baltimore Staff, Social Media Post Prompts Baltimore Police to seize Ghost Gun, Make Arrest, Newsbreak (Feb. 6, 2022), available online at <https://www.newsbreak.com/news/2507761413151/social-media-post-prompts-baltimore-police-to-seize-ghost-gun-make-arrest>.

⁴ See Sonia Dasgupta and Kevin Lewis, Other Magruder High School students witnessed shooting, but tweeted instead of calling 911, ABC 7 News (Jan. 24, 2022), available online at <https://wjla.com/news/local/magruder-high-school-shooting-montgomery-county-police-colonel-zadok-bathroom-teen-injured-steven-alston-jr>.

SB0387_Untraceable_Firearms_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0387
PUBLIC SAFETY – UNTRACEABLE FIREARMS**

Bill Sponsor: President

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0387 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Anyone who has gone to great lengths to conceal a gun from any attempt to register it, should be convicted. If they are found to have done this more than once, the fines and jail time should be applicable to each instance.

Our Coalition supports the thrust of this bill, in making it illegal to own a gun that does not have a serial number and registration. We are anxious to ensure that ownership of these guns is prohibited, and we do like the fact that there is up to 3 years in jail and up to \$10,000 in fines for each time this happens.

We would all like to live in a society where all personal gun use is illegal. We would have many, many fewer deaths. If we have to live with guns, they should at least be registered and owned by people who are capable of following laws.

We recommend a **FAVORABLE** report in committee.

SB0387_Chris_Apple_FAV.pdf

Uploaded by: Christopher Apple

Position: FAV

TESTIMONY IN SUPPORT OF BILL SB0387 - FAVORABLE
Public Safety - Untraceable Firearms

TO: Chair Smith, Vice Chair Waldstreicher,
and members of the Judicial Proceedings
Committee

FROM: Chris Apple
7001 Cradlerock Farm Court
Columbia, MD 21045
District 13

Feb 16, 2022

Maryland is experiencing a dramatic increase in the use of untraceable firearms in violent crime. These so-called “ghost” guns do not have a serial number and cannot be traced by law enforcement. Under Maryland law, they are not subject to background checks, and so can be purchased as kits on the internet by anyone.

Unfortunately, the lack of regulation means these guns can be easily obtained by children and anyone who cannot pass a background check. There have recently been several high-profile shootings involving minors with ghost guns. Last year alone, Baltimore police seized 345 ghost guns, about 15% of all guns seized in the city.¹

This bill would address this issue by requiring background checks for any firearm assembled from parts. It would also require any such firearm to bear a serial number. This would bring regulations for assembled firearms in line with those for pre-built firearms. It’s not a ban; it’s only imposing the same requirements that pre-built guns have seen for decades.

Certainly most Marylanders who own these kits do not intend to commit a crime, and they will have an opportunity to serialize and keep their firearms. I do not believe many people would view this as a great burden. Americans are very supportive of universal background checks² and other violence-preventing measures, even though those measures create a minor inconvenience.³ It seems likely that they would also be willing to serialize their weapons, as doing so only serves to improve public safety.

I respectfully urge a favorable report on SB 387.

¹ <https://www.wbaltv.com/article/maryland-ghost-gun-ban-legislation/38831925#>

² <https://morningconsult.com/2021/03/10/house-gun-legislation-background-checks-polling/>

³ <https://www.pbs.org/newshour/politics/most-americans-support-stricter-gun-laws-new-poll-says>

SB0387 - 2.16.22 -- Public Safety - Untraceable Fi

Uploaded by: Donald Fry

Position: FAV



TESTIMONY PRESENTED TO THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

**SENATE BILL 387 – PUBLIC SAFETY – UNTRACEABLE FIREARMS
Sponsor - The President (By Request - Office of the Attorney General) and Senator Lee**

February 16, 2022

**DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE**

Position: Support

Senate Bill 387 would alter the definition of “firearm” to include an unfinished frame or receiver that has reached a stage in manufacturing where it can readily be completed, assembled, or converted into a functional firearm. This would subject these untraceable guns, known as “ghost guns”, to the same federal laws and regulations that are applicable to all other firearms, including the requirement that it be properly licensed and registered.

The proliferation of “ghost guns” has added to the unacceptable levels of gun violence in the state. Last year alone, Baltimore City police seized 345 ghost guns. In 2018, only 12 ghost guns were seized. Baltimore Police Commissioner Michael Harrison projects that the numbers of ghost guns seized will more than double this year, with the city on track to seize 700 ghost guns. Similar increases in ghost gun recoveries are occurring across the state. Prince George’s County reports that 264 untraceable guns were seized in 2021, a dramatic increase from only 27 ghost guns recovered in 2019.

The Greater Baltimore Committee (GBC) supports Senate Bill 387 because data shows that ghost guns are a growing threat to the safety of Marylanders. The removal of that threat is a necessary step to improve public safety. Violent crime and public safety concerns threaten the health, well-being, and economic prosperity of our communities. Decisive and strategic action by state and local officials is critical; passage of this bill targeting unregistered ghost guns fits that description.

The GBC contends that Senate Bill 387 will make a tangible difference toward improving public safety throughout the State of Maryland.

For these reasons, the Greater Baltimore Committee urges a favorable report on Senate Bill 387.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 67-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE

111 South Calvert Street • Suite 1700 • Baltimore, Maryland • 21202-6180

(410) 727-2820 • www.gbc.org

SB 387 ghost gun testimony 2-15- 22 ..pdf

Uploaded by: Jim Lieberman

Position: FAV



**TESTIMONY OF THE CRITICAL ISSUES FORUM: ADVOCACY
FOR SOCIAL JUSTICE OF MONTGOMERY COUNTY, MARYLAND
ON FEBRUARY 16, 2022
BEFORE THE HOUSE JUDICIAL PROCEEDINGS COMMITTEE
IN SUPPORT OF SB 387– UNTRACEABLE FIREARMS**

Honorable Chair William Smith, Vice-Chair Jeff Waldsteicher, and Members of the House Judicial Proceedings Committee:

The Critical Issues Forum: Advocacy for Social Justice (CIF), provides this testimony in support of SB 387, relating to untraceable firearms – commonly known as “ghost guns.”

CIF is a coalition of three synagogues, Temple Beth Ami, Kol Shalom, and Adat Shalom, with over 1,750 households and three denominations of Judaism: Reform, Conservative, and Reconstructionist. CIF serves as a vehicle for our congregations to speak out on policy issues that relate to our shared values, including the Jewish traditions that emphasize the sanctity and primary value of human life.

Ghost guns - firearms made from kits without serial numbers or manufactured from undetectable materials – have become an increasing safety risk and roadblock for law enforcement. The reason is simple. These weapons are readily available over the internet to individuals who both the Federal and State governments have determined should not purchase a firearm. This includes those with a criminal record, those with active restraining orders for domestic abuse, and, sadly, teenagers.

As residents of Montgomery County, we have seen what can happen when teenagers get these ghost guns. Last month a 17 year old shot another student in the bathroom of Magruder High School. He used a gun that he had assembled from a kit purchased online -a ghost gun.

He could not have legally purchased a handgun in this state. Maryland law requires that a purchaser of a handgun must have a qualification license. Maryland Code, Public Safety, §5-117.1(b)-(c). To obtain that license a person must (1) be at least 21 years old, (2) have completed a fire arms training course, and (3) have passed a background check. *Id.*, §5-117.1(d). The 17-year-old was able to obtain the handgun without satisfying any of these requirements because the kit he purchased contained an unfinished receiver, which, under current Federal and Maryland law, does not constitute a handgun. SB 387 would address this issue.

The Magruder incident is not an isolated example. Marc Elrich, the County Executive of Montgomery County, reported that the Magruder High School incident was the fifth ghost gun recovered in a County school during this school year.¹ The number of ghost guns confiscated in the County has grown fivefold in just the past two years- from 16 in 2019 to 70 in 2021.² For example, in August 2021, a 14 years old teenager at the Plum Gar Community Recreation Center in Germantown is alleged to have used a ghost gun to shoot and kill a 20-year old man.³ The Montgomery County States Attorney, John McCarthy, recently stated: “All the things that people have worked for years to do, to make sure we monitored who had access to handguns goes out the window if you don’t begin to regulate, in some intelligent fashion, ghost guns.”⁴

The problem is not limited to Montgomery County; it is a concern for the entire state of Maryland. The Washington Post noted that last year in Prince Georges County police seized 264 ghost guns, a significant increase over the 27 recovered in 2019.⁵ The Post further reported that investigators in Prince Georges have since 2019 linked at least 13 homicides, 10 robberies, and 20 aggravated assaults to ghost guns.⁶ The Baltimore Police Commissioner stated last year that the city was on track to recover 700 ghost guns compared to the 12 seized in 2018.⁷ He said 69 acts of violence were linked to the 345 ghost guns that were recovered last year and characterized this proliferation of ghost guns as “frighting,” stating “I could spend hours telling you stories about how these ghost guns hurt our community and make our streets unsafe.”⁸

The opponents of SB 387 wrongly contend that, if it becomes the law, hobbyists will no longer be able to make their own guns. They are wrong because kits containing *completed* frames or receivers marked with a serial number are available today⁹ and they will be available if SB 387 is enacted. The prohibition in the bill’s section 5-703(A) addresses the unmarked and incomplete frames and receivers. The purchaser of kits with marked devices will of course be required to submit to a background check. But what law abiding hobbyist would object to this.

That’s why nationally and locally, ghost guns are increasingly popular with criminal populations, including white-supremacist organizations. According to a recent report by the federal Joint Counterterrorism Assessment Team, domestic terrorists are increasingly using ghost guns to

¹ County Executive Elrich weekly message January 27, 2022 reported by: <https://mocoshow.com/blog/weekly-message-from-the-county-executive-marc-elrich-8/>

² [https://bethesdamagazine.com/bethesda-beat/government/advocates-officials-focus-on-ghost-gun-crackdown-after-magruder-](https://bethesdamagazine.com/bethesda-beat/government/advocates-officials-focus-on-ghost-gun-crackdown-after-magruder-shooting/#:~:text=State's%20Attorney%20John%20McCarthy%20said,seized%20from%20the%20same%20school.)

[shooting/#:~:text=State's%20Attorney%20John%20McCarthy%20said,seized%20from%20the%20same%20school.](https://www.washingtonpost.com/local/juveniles-shot-basketball-court-montgomery-county/2021/08/18/2a04d120-009c-11ec-85f2-b871803f65e4_story.html)
³ https://www.washingtonpost.com/local/juveniles-shot-basketball-court-montgomery-county/2021/08/18/2a04d120-009c-11ec-85f2-b871803f65e4_story.html

⁴ <https://wtop.com/montgomery-county/2021/08/montgomery-countys-first-ghost-gun-killing-spurs-calls-for-tougher-laws/>

⁵ <https://www.washingtonpost.com/dc-md-va/2022/01/25/maryland-lawmakers-ghost-gun-ban/>

⁶ [Id.](#)

⁷ [Id.](#)

⁸ [Id.](#)

⁹For example: <https://www.polymer80.com/P80-Full-Sized-AFT-Kit-Black-17rd-Magazine;>
<https://www.aeroprecisionusa.com/m4e1-complete-lower-receiver-w-moe-sl-grip-sl-carbine-stock-anodized#>

acquire weaponry and evade state and federal gun laws. In early 2020, three members of "The Base," a white-supremacist group, were arrested in Maryland in possession of a homemade assault rifle and more than 1,500 rounds of ammunition and an intent to commit violence to further white nationalism.¹⁰

The federal government has also recognized the significant contribution of ghost guns to violent crime. In a speech on February 3, 2022, Attorney General Garland said: "[G]un violence is a universal challenge and one that demands comprehensive action. That is why, as the President said, the Justice Department is taking action to crack down on ghost guns and to hold those who illegally sell firearms to criminals accountable."¹¹ [cite to Garland 2/3 speech in NY]. The Bureau of Alcohol, Tobacco, and Firearms (ATF) has proposed regulations that will define these gun kits as "firearms," making them subject to serial number and background check requirements. 86 Fed. Reg. 27722. The regulations also require that licensed firearms dealers, including gunsmiths, affix a serial number to any ghost gun that comes into their possession. 86 Fed. Reg. 27731.

SB 387 adopts similar requirements at the state level, adding "an unfinished frame or receiver" to the definition of a "firearm" in §5-101(h) of the Maryland Public Safety Code. Under section 5-701(H) of the bill, an "unfinished frame or receiver" is defined as one that:

- (1) has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm; or
- (2) is marketed or sold to the public to become or be used as the frame of receiver of a functional firearm once completed, assembled, or converted.

The unfinished frames and receivers sold online satisfy both of these criteria. Indeed, those devices have no other practical use.

SB 387 attempts to limit the future availability of these unfinished devices and the ghost guns made from them in two ways:

First, it prohibits the purchase or sale of an unfinished frame or receiver unless it is required by Federal law to be, and has been, imprinted with serial number. Serialized sales would thus be permitted under the new ATF regulations, if they are in effect.

Second, the bill prohibits the possession of a firearm after January 1, 2023, unless it contains a serial number. This could be a serial number required by federal law or one imprinted under the rule set out in Section 5-703(B)(2) of the bill. The bill thus provides a mechanism for hobbyists to engrave an acceptable serial number on ghost guns made prior to the effective

¹⁰ <https://www.washingtonpost.com/opinions/2021/12/17/rise-ghost-guns-maryland/>

¹¹ <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-meeting-president-biden-and-members>

date. This is an important supplement to the ATF regulations because the Federal government does not have the power to regulate such pre-adoption ghost guns. In addition, this state law would be in place if the proposed regulations are not issued in final form or are repealed in future years.

In sum, SB 387 provides a carefully designed structure to deal with ghost guns, a growing source of presently uncontrolled lethal weapons. They put all of us, and especially our children, at great risk of shootings, unintentional harm, and suicide while they handicap the ability of law enforcement to fight crime. As legislators you must take action to address this critical matter. SB 387 will go a long way toward solving the problem of ghost guns in Maryland by reducing the existing supply of these weapons and the tragedies they cause in our communities.

The Critical Issues Forum requests that the committee favorably refer SB 387.

WDC Testimony SB0387_2022.pdf

Uploaded by: JoAnne Koravos

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 0387 – Public Safety - Untraceable Firearms
Senate Judicial Proceedings Committee – February 16, 2022
FAVORABLE**

Thank you for this opportunity to submit written testimony regarding a top priority of the **Montgomery County Women's Democratic Club (WDC)**. WDC is one of the largest and most active Democratic Clubs in the State, with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB0387. As the Gifford's organization states, "If you can build IKEA furniture, you can build a ghost gun." These guns are easy to build and easy to buy. Their numbers are increasing exponentially. In 2016, Prince George's County police encountered just one ghost gun. Last year, they encountered 264 ghost guns. In Montgomery County, the numbers have increased 5-fold in 2 years. Now, ghost guns are being purchased by children in easy to assemble kits. We were horrified to see that just last month, a Montgomery County student shot another student with a ghost gun in the school bathroom.

As you know, because ghost guns do not have serial numbers, they are nearly impossible to trace, and can be purchased by people who would not pass a background check.

Ghost guns favor criminals. An untraceable weapon makes investigating crimes far more difficult for law enforcement. Unsolved murders using ghost guns result in emboldened criminals. We need to make life easier for law enforcement and more difficult for criminals. Not the other way around.

The gun lobby has a monetary interest in increasing gun ownership and eliminating gun laws. They have misinterpreted the second amendment to mean "all guns for all people at all times," arguing frequently in support of peoples' hobbies. We need to address ghost guns now for the safety of millions, and *not* prioritize the hobby of a few.

This legislation will save lives. This can't be said of all legislation. It can be said about SB037.

We ask for your support for SB0387 and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President

BaltimoreCounty_FAV_SB0387.pdf

Uploaded by: Joel Beller

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JOEL N. BELLER
Acting Director of Government Affairs

JOSHUA M. GREENBERG
Associate Director of Government Affairs

MIA R. GOGEL
Associate Director of Government Affairs

BILL NO.: Senate Bill 387

TITLE: Public Safety - Untraceable Firearms

SPONSOR: The President (By Request – Office of the Attorney General)

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORT**

DATE: February 16, 2022

Baltimore County **SUPPORTS** Senate Bill 387 – Public Safety - Untraceable Firearms. This legislation would alter the definition of a firearm to include an unfinished frame or receiver, and ban the sale, purchase, receiving, transferring and offer of sale of the unfinished frame or receiver.

Under current law, an unfinished frame or receiver does not meet the statutory definition of “firearm.” These unfinished frames and receivers may be 3D printed and sold without being formally registered or imprinted with an identifying serial number. However, by simply drilling one or two holes in the frame, these objects instantly become a functioning firearm. The distinction in current statute effectively allows for the transfer and sale of untraceable firearms, otherwise known as “ghost guns,” which may not be discovered until they have already been used in the perpetration of a crime.

By altering the definition of “firearm” to include unfinished frames and receivers, SB 387 closes the loophole which has allowed for an unregulated untraceable firearm market to exist. Ensuring that firearms are traceable and sold only to approved customers with the training to handle them safely continues to be a priority of Baltimore County. Further gun safety regulation will assist County law enforcement as they continue to combat violent crime and keep residents safe.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 387. For more information, please contact Joel Beller, Acting Director of Government Affairs at jbeller@baltimorecountymd.gov.

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Uploaded by: Justin Hayes

Position: FAV



Peter Franchot
Comptroller

TESTIMONY OF COMPTROLLER PETER FRANCHOT

Support – Senate Bill 387 – Public Safety - Untraceable Firearms

Judicial Proceedings Committee

February 16, 2022

Chair Smith, Vice Chair Waldstreicher and members of the Committee, it is my pleasure to provide testimony in **support** of **Senate Bill 387 – Public Safety - Untraceable Firearms**. I would like to thank Senate President Bill Ferguson and Senator Susan Lee for sponsoring this important legislation, and the Committee for providing the opportunity for my testimony to be heard.

According to the CDC, in 2020, nearly 20,000 people were murdered in the United States in crimes involving a firearm. In Maryland, we lose approximately 500 of our fellow citizens every year to gun-related violence – a toll that falls disproportionately on vulnerable communities and people of color. Despite these alarming statistics, there are still nationwide efforts in both policy, and technology development to make access to firearms easier. The only parties who stand to benefit from the philosophy that ‘more guns mean less crime’ are the firearm manufacturers who have a financial interest in the continued legality of these so-called ‘ghost guns.’ These unserialized firearms are increasingly available, and more frequently used in criminal activity. It is crucial that SB387 is enacted into law to help keep these essentially untraceable and uncontrollable weapons off the streets.

I am proud that Maryland is not a state that holds the misguided belief that ‘more guns means less crime,’ and continually strives to make progress against violent crime. I want to commend the sponsors of this bill and Attorney General Brian Frosh for his leadership on this important issue.

For the reasons stated above, I respectfully request a **favorable report** for Senate Bill 387. Thank you for your time and consideration.

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(Final)Ghost Guns 2022 SB387.pdf

Uploaded by: Karen Herren

Position: FAV



**Testimony in Support of Public Safety - Untraceable Firearms
SB 387/HB 425**

**Legislative Director Karen Herren, JD
Marylanders to Prevent Gun Violence**

February 16, 2021

Dear Chair Smith, Vice-Chair Waldstreicher, and Distinguished Members of the Committee,

Marylanders to Prevent Gun Violence is a statewide, grassroots organization dedicated to reducing gun deaths and injuries throughout the state of Maryland. MPGCV has a particular focus on reducing urban gun violence and gun suicide. **We urge the committee for a FAVORABLE report on Senate Bill 387 to prohibit unserialized firearms in the state of Maryland.**

SB 387 seeks to address a form of firearms that are untraceable by law-enforcement. These self-assembled firearms—which can be built from kits or otherwise assembled parts — are referred to as ghost guns because they do not come with a serial number and are untraceable. In the traditional manufacturing process, the firearm manufacturer or importer will affix a serial number and markings that identify the manufacturer or importer, make, model, and caliber. Using this information, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) can track firearms from the manufacturer or importer through the distribution chain to the first retail purchaser. ATF works extensively with other law enforcement agencies to trace crime guns using these markings. Tracing is a powerful investigative tool, but it is dependent on the ability to identify firearms based on their serial numbers. Because the purveyors of the parts and kits used to make untraceable guns claim that they are not selling firearms, they also assert that these serialization requirements do not apply to them. Without a serial number, law enforcement cannot run a trace search on a firearm, making it difficult, if not impossible, to determine the chain of custody.

Crucially, kit or parts buyers are also allowed to circumvent Maryland's strong gun laws as the acquisition of these parts do not currently require any of the necessary safety steps (such as background checks) that keep guns out of the hands of prohibited people.

The problem

Off the books, untraceable “ghost guns” can now be manufactured at home, easily, and in large numbers: they contribute ever more frequently to firearm violence, including hate violence and domestic terrorism. The ATF estimates that in 2019 alone, law enforcement agencies recovered more than 10,000 ghost guns. Currently, it is completely legal for prohibited people ... like minors and people who are otherwise deemed inappropriate for firearm ownership ... to purchase the parts needed to create fully operational firearms. When these weapons are later used in crime, they are impossible to trace since they do not have the paper trail required with off-the-shelf firearms. **Allowing these gun parts to be sold and distributed within Maryland is allowing firearms to get into the hands of people who should not have them, often in large numbers, while simultaneously tying the hands of law enforcement to hold violence perpetrators accountable.**

The History of Unserialized Firearms

[Unserialized firearms](#) are not a new phenomenon. For decades, firearm manufacturers sought clarification from the ATF on the question of when a piece of raw material becomes a firearm in the eyes of the law. There has never been a clear answer, and generally the ATF has ruled on a case by case basis. Originally, the agency held that a substantial amount of effort (effort that took ATF experts more than an hour to accomplish) had to be left to the buyer in order for a partially finished frame or receiver not to be ruled a firearm. However, about 15 years ago, the ATF lowered this bar and provided specific, written instructions on how to come as close as possible to creating a firearm without crossing the line. The ghost gun industry has exploded ever since.¹

Where We Are Now

In 2019, the ATF successfully traced nearly 270,000 firearms. During that same year, law enforcement recovered some 10,000 ghost guns. At least 38 states have seen criminal cases involving ghost guns and some 30% of all firearms recorded in California trafficking investigations were unserialized. Maryland is no exception and the headlines are filled with instances where a ghost gun features front and center.

¹ Wintemute, G.J. Ghost guns: spookier than you think they are. *Inj. Epidemiol.* 8, 13 (2021). <https://doi.org/10.1186/s40621-021-00306-0>

- In [August of 2021](#) a 14-year-old Maryland boy armed with a ghost gun opened fire at an outdoor basketball court in Germantown killing one young man and injuring three teenagers.
- In [September of 2021](#), a Chesapeake High School student in Essex was apprehended for bringing a 9mm ghost gun to school.
- In January of this year, a 17-year-old shot and seriously injured a 15-year-old student at [Magruder High School](#) in Montgomery County. While the school was on lock-down for hours, the shooter disassembled the gun, shoved it in his backpack, and hid in plain sight in a classroom with other students until SWAT tracked him down and apprehended him. Subsequent investigations indicate that the teen purchased the components online that were delivered to his home.

Unfortunately, there are too many of these types of stories to list them all. In Baltimore alone, the increase in recovered ghost guns from 2019 to now is stunning. BPD recovered 30 ghost guns in 2019. In 2021, they recovered [324](#). This represents 14% of all the guns seized and an increase since 2019 of over 970%. At least seventeen of these weapons were found in the hands of minors and 61 of these weapons were in the hands of those under the legal age to buy firearms.²

Kids and Guns

As some of the examples above illustrate, of particularly alarming concern is the prevalence of ghost guns in the hands of youth. Individuals otherwise too young to legally purchase a firearm, are able to buy ghost gun parts and kits. BPD have cited increasing incidents of ghost guns seized from the possession of teenagers. Montgomery County has reported ghost guns being seized on school property. Mental and behavioral health experts are highlighting the alarming state of youth mental health and begging for officials to take more action to provide resources to help youth while taking steps to reduce youth access to lethal means. While youth access to ghost guns is not the only concern in how prevalent these firearms are, it is certainly a major one.

Federal Level Reform

A rulemaking change is currently working its way through the federal system that would update the definition of firearms to include unfinished frames and receivers. Expectations are that this rulemaking change will become final in the summer of 2022. This change would ensure that people who wish to create their own firearm go through the

² The comment about minors and under-age gun possessors is based on numbers from BPD through November of 2021 and does not include the month of December, so this is likely slightly lower than actual numbers.

same process and procedure and fulfill the same standards as people purchasing ready made firearms. The end result would be that prohibited people would not be able to easily skirt gun regulations to acquire firearms and that privately made firearms that are used in crimes would have a serial number to allow proper investigations to ensue. An ATF official reported at a recent trade show that action on the rulemaking was expected this summer. As Maryland continues to see alarming increases in ghost gun related crime, U.S. Senators Van Hollen and Cardin have sent President Biden a [letter](#) in January asking him to accelerate this process.

State Level Reform

SB 387 is designed to ideally work in tandem with the expected Federal rulemaking, but it will also operate independently if necessary. In addition, the legislation is designed to address the existing stocks of unserialized ghost guns and gun parts. It does this by lining that system up with the federal requirements. Should the federal rulemaking be delayed, fail to be finalized, or subsequently repealed, this bill will provide a backstop so that unserialized firearms remain illegal. It should be made clear that the purpose of legislation pertaining to privately made firearms is not to penalize or prohibit the art form of gunsmithing. However, it should not be legal to use gunsmithing as a way of circumnavigating laws intended to ensure that firearms be kept out of the hands of prohibited people. As long as those wishing to make their own firearms do so with serialized parts and that unserialized privately made firearms already in existence be brought into compliance, the practice remains legal and acceptable within the legal framework constructed.

MPGV supports SB387 and asks this committee for a Favorable report.

2022 SB 0387 - FAVORABLE.pdf

Uploaded by: Ken Phelps

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

TESTIMONY IN SUPPORT OF SB 0387:

Public Safety – Untraceable Firearms

****FAVORABLE****

February 16, 2022

TO: President Ferguson and Members of the Senate

FROM: The Rev. Kenneth O. Phelps Jr', Co-Chair of the Maryland Episcopal Public Policy Network

Non-violence is at the core of Christian faith and practice. The teachings of Jesus – as contained in the New Testament – call the faithful to a rejection of a system of retribution and righteous violence and into an alternative way of living that is based on unconditional love of neighbor and accountability for the common good.

We cannot normalize violence or contemplate its use ever as being for the right. And, we do not believe that the answer to escalating gun violence is an increase in the number of guns on the street.

Over the years, our bishops have called for common sense gun safety measures that enjoy the support of gun owners and non-gun owners alike: handgun purchaser licensing; background checks on all gun purchasers; restrictions on gun ownership by domestic abusers; classification of gun trafficking as a federal crime; encouragement for the development of “smart gun” technology; and, federal funding for research into gun violence prevention strategies. Our Church has passed numerous resolutions calling for many of these measures.

We now add to that list our support of this ban on the production, possession or sale of all untraceable firearms.

California Law Enforcement reports that untraceable guns were used in several rampages in their schools killing a total of 13 people in the last several years.

We urge a favorable report.

VSAB Support Ltr Ghost Guns Senate 2022.pdf

Uploaded by: Leslie Frey

Position: FAV



VICTIM SERVICES ADVISORY BOARD

February 16, 2022

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Support - SB387 - Public Safety - Untraceable Firearms

Dear Chairman Smith:

Senate Bill 387 addresses the need to monitor and control the use of “do-it-yourself” (DIY) or “ghost guns” by extending the definition of regulated firearms to include certain unfinished frames or receivers. Additionally, the bill requires that all firearms are marked with a unique serial number and that individuals possessing such firearms maintain a certain log. Penalties are imposed for violations in the manufacture, possession, sale, and transfer of these firearms.

The Montgomery County Victim Services Advisory Board (VSAB) advises the County Council and County Executive on assisting victims and their family members who experience violent crimes including domestic violence, sexual assault and homicide. Montgomery County experienced 35 homicides in 2021, the most in one year for the past 32 years. (<https://wjla.com/news/local/montgomery-county-murder-homicide-deadliest-year-record-germantown-fatal-shooting-circle-gate-drive-seneca-valley>, Dec. 24, 2021). Montgomery County is reporting more serious domestic violence crimes than ever before. (<https://wtop.com/montgomery-county>, Oct. 13, 2021). The county’s inability to track weapons used in such violence puts victims at significantly greater risk.

Too many - almost a half dozen - ghost guns have been found in Montgomery County schools this year already. (<https://www.nbcwashington.com/news/local/dc-gun-violence/new-legislation-would-ban-ghost-guns-in-maryland/2942514>, Jan. 20, 2022). County ghost gun seizures increased fivefold in two years, from 16 in 2019 to 70 in 2021. (<https://bethesdamagazine.com/bethesda-beat/government/advocates-officials-focus-on-ghost-gun-crackdown-after-magruder-shooting/>, Jan. 26, 2022). More than 12,000 ghost gun kits were shipped to Maryland between 2016 and 2019, and the Bureau of Alcohol, Tobacco and Firearms (ATF) reported 117 ghost guns recovered in the state in 2019. (<https://wjla.com/news/local/ghost-guns-ban-maryland-rally-moms-students-demand-action-everytown-for-gun-safety-brian-frosh-attorney-general-tuesday-lawyers-mall-annapolis-senator-will-smith>, Jan. 24, 2022). The state regulation of these dangerous firearms is long overdue.

VSAB asks the committee to issue a favorable report on Senate Bill 387.

Sincerely,

Amos Hicks III
VSAB Member

Department of Health and Human Services

SB 387 - Ghost Guns.pdf

Uploaded by: Matt Peterson

Position: FAV

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WRITTEN TESTIMONY

Senate Bill 387 – Public Safety – Untraceable Firearms

Judicial Proceedings Committee

February 16, 2022

SUPPORT

MEMBER ORGANIZATIONS

Adat Chaim Congregation
American Jewish Committee
Americans for Peace Now
Baltimore Chapter
American Israel Public Affairs Committee
American Red Magen David for Israel
American Zionist Movement
Amit Women
Association of Reform Zionists of America
Baltimore Board of Rabbis
Baltimore Hebrew Congregation
Baltimore Jewish Green and Just Alliance
Baltimore Men's ORT
Baltimore Zionist District
Beth Am Congregation
Beth El Congregation
Beth Israel Congregation
Beth Shalom Congregation of
Howard County
Beth Tfiloh Congregation
B'nai B'rith, Chesapeake Bay Region
B'nai Israel Congregation
B'nai Jacob Shaarei Zion Congregation
Bolton Street Synagogue
Chevra Ahavas Chesed, Inc.
Chevrei Tzedek Congregation
Chizuk Amuno Congregation
Congregation Beit Tikvah
Congregation Beth Shalom of
Carroll County
Congregation Tiferes Yisroel
Federation of Jewish Women's
Organizations of Maryland
Hadassah
Har Sinai - Oheb Shalom Congregation
J Street
Jewish Federation of Howard County
Jewish Labor Committee
Jewish War Veterans
Jewish War Veterans, Ladies Auxiliary
Jewish Women International
Jews For Judaism
Moses Montefiore Anshe Emunah
Hebrew Congregation
National Council of Jewish Women
Ner Tamid Congregation
Rabbinical Council of America
Religious Zionists of America
Shaarei Tfiloh Congregation
Shomrei Emunah Congregation
Simon E. Sobeloff Jewish Law Society
Suburban Orthodox Congregation
Temple Beth Shalom
Temple Isaiah
Zionist Organization of America
Baltimore District

Background: Senate Bill 387 (SB387) would change the definition of firearm to include what are commonly referred to as ghost guns and prohibit the purchase, sale, receiving, offering, or transferring of an unfinished frame or receiver unless it is required by federal law to be imprinted with a certain serial number.

Written Comments: Ghost guns pose a significant threat to public safety. Kits can be purchased on the internet by anyone, and then assembled at home to create an untraceable firearm. The prevalence of these deadly untraceable weapons is increasing in Maryland. In 2021, the Baltimore Police Department seized 324 ghost guns, which accounts for 14% of all guns seized by the Department. In 2020 the Department reported seizing 128, and only 30 were seized in 2019. This sharp increase comes at time when the state is seeing a dramatic increase in homicides. Just last month a 15 year-old high school in Montgomery County student was left seriously injured after being shot by a ghost gun. Maryland is not alone in this trend, the ATF reported that approximately 10,000 ghost guns were recovered across the country in 2019, which undoubtedly can be traced to a countless number of tragedies.

The true scale of the threat that ghost guns pose is ultimately impossible to measure given that they are untraceable. We will never know how many are in circulation, however by banning them we can ensure they will no longer be sold online and end up on Maryland streets or schools.

With the recent rise in violent hate crime, the proliferation of untraceable weapons is deeply concerning to the Jewish Community. The internet is already home to enough hateful rhetoric and content to motivate perpetrators of these crimes, it should not also be a place for them to purchase firearms.

The Baltimore Jewish Council and The Associated Jewish Community Federation of Baltimore are committed to creating a safe community for all faiths to live and worship. With this in mind, the Baltimore Jewish Council urges a favorable report of SB387.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

BALTIMORE JEWISH COUNCIL

5750 Park Heights Avenue, Suite 329 • Baltimore, Maryland 21215

410-542-4850 • fax 410-542-4834 • baltjc.org

Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated



SB 387_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 387
TITLE: Public Safety - Untraceable and Undetectable Firearms
COMMITTEE: Judicial Proceedings
HEARING DATE: February 16, 2022
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 387.**

Maryland law currently prohibits certain persons from owning or possessing firearms including when previously convicted of certain crimes, when under a civil protective order, or pursuant to an Extreme Risk Protective Order. Since “ghost guns” bypass the background check process and are unregulated and untraceable, the otherwise prohibited persons can legally obtain fully functioning firearms. SB 387 seeks to ensure that these “ghost guns” are traceable and that existing law apply to owners and dealers of these weapons.

Senate Bill 387 would require a serial number for unfinished frames or receivers for firearms. Currently the sale of these unfinished frames or receivers are unregulated and they are a necessary component to build a “ghost gun.” These “ghost guns” can be purchased online, built at home, are untraceable because they lack serial numbers, and circumvent the entire background check and training required for other firearms. SB 387 does not prohibit “ghost guns” it merely requires that they be subject to the already existing requirements for gun ownership in Maryland law.

Higher rates of firearm ownership correlate to a higher rate of domestic violence homicide according to a 2019 study.¹ There is a 65% higher incidence rate of domestic firearm homicide in the states with the highest firearm ownership compared to states with lower ownership rates.² Since women are the most common victims of domestic violence homicide, they are most at risk with increased gun ownership.³ Black women are disproportionately the victims of domestic violence homicide with a firearm with an

¹ Kivisto, A.J., Magee, L.A., Phalen, P.L., Ray, B.R. (2019). Firearm ownership and domestic versus nondomestic homicide in the U.S. American Journal of Preventive Medicine, Abstract: [https://www.ajpmonline.org/article/S0749-3797\(19\)30197-7/fulltext#articleInformation](https://www.ajpmonline.org/article/S0749-3797(19)30197-7/fulltext#articleInformation)

² Merovsh, Sarah. “Gun Ownership Rates Tied to Domestic Homicides, but Not Other Killings, Study Finds,” NY Times, (July 22, 2019) <https://www.nytimes.com/2019/07/22/us/gun-ownership-violence-statistics.html>

³ *Id.*

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org



estimated 51.3% of Black adult female homicides found to be related to intimate partner violence.⁴ The risk of homicide for women increases by 500% with the presence of a gun in the home.⁵

For the above stated reasons, the **Maryland Network Against Domestic Violence** urges a **favorable report on SB 387**.

⁴ Petrosky, E., Blair, J.M., Betz, C.J., Fowler, K.A., Jack, S.P.D., & Lyons, B.H. (2017). Racial and ethnic differences in homicides of adult women and the role of intimate partner violence - United States, 2003-2014. MMWR. Morbidity and Mortality Weekly Report, 66(28), 741-746. Retrieved from <https://www.cdc.gov/mmwr/volumes/66/wr/pdfs/mm6628a1.pdf>.

⁵ The National Domestic Violence Hotline, Retrieved 1/29/21, <https://www.thehotline.org/resources/safety-planning-around-guns-and-firearms/>

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org

MD Catholic Conference_FAV_SB0387.pdf

Uploaded by: MJ Kraska

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 16, 2022

SB 387

Public Safety - Untraceable Firearms

Senate Judicial Proceedings Committee

Position: Support

The Maryland Catholic Conference (“Conference”) represents the public policy interests of the three Roman Catholic (arch)dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

Senate Bill 387 alters a certain definition of "firearm" to include a certain unfinished frame or receiver; prohibiting a person from purchasing, receiving, selling, offering to sell, or transferring an unfinished frame or receiver, or possessing a firearm on or after January 1, 2023, unless it is required by federal law to be, and has been, imprinted with a certain number in a certain manner; and requiring the Secretary of State Police to suspend or revoke a certain dealer's license if the dealer is charged with or convicted of a certain crime

The Catholic Church has a strong interest in public safety and keeping communities safe. The United States Conference of Catholic Bishops states in response to rising violence that “[w]e have an obligation to respond. Violence – in our homes, our schools and streets, our nation and world – is destroying the lives, dignity and hopes of millions of our sisters and brothers.” To that point, the Church supports legislation that controls the sale and use of and strengthens regulations on dangerous firearms, and other such legislation that makes guns safer.

In practice, the Conference supports legislation that restricts access to lethal weapons that endanger entire communities. When community members are not in fear of their lives, they can live up to their God-given potential and enrich the world around them. Every person has a right to life, and the Conference will continue to work to combat violence and promote a culture of peace. Banning dangerous and lethal weapons such as untraceable firearms is a manageable and efficient way to curb the rising culture of violence. Recent events in the United States have made gun safety legislation a primary goal, and the Conference earnestly supports the banning of these devices that contribute to that effort.

The Conference appreciates your consideration and, for these reasons, respectfully requests a favorable report on House Bill 387.

Giffords Testimony in Support of SB 387.pdf

Uploaded by: Moira Cyphers

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 387

TO: THE JUDICIARY COMMITTEE

SUBMITTED BY: DAVID PUCINO
DEPUTY CHIEF COUNSEL
GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE

DATE: FEBRUARY 16, 2022

Chair Smith, Vice Chair Waldstreicher, and Members of the Senate Judicial Proceedings Committee: thank you for the opportunity to provide this testimony on behalf of Giffords, the gun violence prevention organization led by former Congresswoman Gabby Giffords. I am writing in support of Senate Bill 387, which would prohibit dangerous untraceable firearms, which are often referred to as “ghost guns.” Ghost guns pose one of the fastest-rising threats to gun safety. They are rapidly spreading across the country, and have become a favored tool for gun traffickers. As a result, they are an increasing driver of gun violence across the country in general and in the DMV and Maryland in particular.

GHOST GUNS ARE DESIGNED TO AVOID BACKGROUND CHECKS AND TO BE UNTRACEABLE

Since the Gun Control Act was enacted in 1968, all firearms manufacturers and importers have placed serial numbers on all firearms sold in the United States. When a firearm is sold by a retailer to a consumer, the retailer retains records of the transaction. This enables a law enforcement process known as “tracing”: when a crime gun is recovered, the serial number allows investigators to trace the firearm back to its retail sale, a critically important piece of information for a firearms investigation.

In addition, before the retail sale of any firearm, a retailer must initiate a background check on the buyer. This background check determines whether the buyer is legally eligible to possess a firearm, and thus prevents people who are prohibited from possessing a firearm from obtaining one.

When it works correctly, the background check, serialization, and record-keeping requirements also discourage firearm trafficking and give law enforcement tools to investigate and crack down on trafficking rings.

Ghost guns disrupt this process. Ghost gun purveyors avoid the range of federal laws pertaining to firearms by exploiting a loophole in the way that the federal government currently defines a “firearm.” By statute, a “firearm” includes “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive” or “the

frame or receiver of any such weapon.”¹ This means that, of all the components that make up a firearm, only one—a “frame” on a handgun, or a “receiver” on a long gun, a key component that houses the firing mechanism—is subject to federal regulation. It is this component, and this component alone, that requires a serial number, a background check before sale, and recording of the sale. Once one has acquired a frame or receiver, one can obtain the rest of the parts needed to assemble a firearm without having to pass a background check.

To avoid federal firearm laws, ghost gun purveyors claim they are not selling frames or receivers; instead, they say they are selling “unfinished” frames or receivers, components that have been machined so that they are almost fully functional frames or receivers, but are not considered “frames” or “receivers”—and therefore are not considered “firearms”—for the purposes of federal law. As a result, ghost gun purveyors can sell unfinished frames and receivers, often packaged with all of the other components needed to assemble a firearm, without serializing the product and without conducting a background check. Their customers can then take the package, drill out the few holes needed to convert the “unfinished” piece into a fully functional frame or receiver, and use it to assemble an unserialized, untraceable firearm.

GHOST GUNS ARE A GRAVE AND GROWING THREAT

Ghost guns present a grave and growing danger to the public. Law enforcement are increasingly encountering trafficking rings that are mass-manufacturing and selling untraceable firearms.² And ghost guns are increasingly being used in shootings and by those seeking to commit acts of political violence.

¹ 18 U.S.C. § 921(a)(3).

² E.g., U.S. Attorney’s Office, Eastern District of California, *Eight Men Indicted for Manufacturing and Dealing AR-15 Type Rifles and Silencers Without a License*, DEP’T OF JUSTICE (Oct. 15, 2015), <https://www.justice.gov/usao-edca/pr/eight-men-indicted-manufacturing-and-dealing-ar-15-type-rifles-and-silencers-without>; Zusha Elinson, *The Rise of Untraceable ‘Ghost Guns,’* WALL ST. J. (Jan. 4, 2018), <https://www.wsj.com/articles/the-rise-of-untraceable-ghost-guns-1515061800>; Maxwell Reil, *Man Indicted After Selling ‘Ghost Gun’ in Hammonton*, PRESS OF ATLANTIC CITY (Apr. 13, 2018), https://www.pressofatlanticcity.com/news/man-indicted-after-selling-ghost-gun-in-hammonton/article_16aa48bc-519c-50d5-b66b-748689e9c5b4.html; Cassie Dickman, *Grass Valley Man Sentenced to 5 Years for Trafficking ‘Ghost’ Guns*, SACRAMENTO BEE (Sept. 22, 2018), <https://www.sacbee.com/news/local/crime/article218864215.html>; Tommy Rowan,; Emily Masters, *State Police: Downstate Cop Sold ‘Ghost’ Guns to Motorcycle Gang*, TIMES UNION (Mar. 1, 2019), <https://www.timesunion.com/news/article/State-Police-Downstate-cop-sold-ghost-guns-to-13656862.php>; *Cedar Rapids Man Pleads Guilty to Federal Drug and Gun Charges*, CBS2/Fox 28 (Jan. 17, 2020), <https://cbs2iowa.com/news/local/cedar-rapids-man-pleads-guilty-to-federal-drug-and-gun-charges>; Bureau of Alcohol, Tobacco, Firearms & Explosives, *Man Sentenced to 15 Years for Trafficking ‘Ghost Guns’ and Drugs* (Feb. 14, 2020), <https://www.atf.gov/news/pr/man-sentenced-15-years-trafficking-ghost-guns-and-drugs>.

To list just a few examples:

- A man who failed a background check and could not legally purchase a gun built an assault rifle from a ghost gun kit, then used it on a rampage at a college campus, firing 100 rounds and killing five people.³
- A man who was prohibited from owning a gun and under prosecution for multiple crimes assembled two assault-style ghost guns from parts he ordered online and went on a rampage with them, killing six people and injure 10 more.⁴
- A sixteen-year-old boy used a self-assembled untraceable firearm in a school shooting in Santa Clarita, CA, killing two students and injuring three others.⁵
- A man was arrested after threatening to “‘blow up’ an FBI building” and threatening Congressional leadership. The man had ordered ghost gun parts, he said, to “start manufacturing implements of war.”⁶
- Last year, a high school student in Fairfax County killed two classmates with a ghost gun.⁷

The threat to public safety is particularly severe in Maryland, and growing worse. In late summer of 2019 police recovered a loaded ghost gun equipped with a high-capacity magazine from a man also charged with drug trafficking,⁸ and in December of 2019 a ghost gun trafficker was sentenced in Montgomery County after supplying ghost guns to organized crime members and other persons prohibited from possessing a firearm.⁹ In 2020 the *Washington Post* reported that police in

³ Robert Cavnar, *Santa Monica Shooter Built His Gun from Parts He Bought Online*, HUFFINGTON POST (June 15, 2013), https://www.huffingtonpost.com/robert-l-cavnar/santa-monica-shooter-buil_b_3447220.html.

⁴ Ray Sanchez, Jason Hanna & Phil Gast, *Gunman in Northern California Rampage Was Not Supposed to Have Guns*, CNN (Nov. 15, 2017), <http://www.cnn.com/2017/11/15/us/california-tehama-county-shootings/index.html>; Damon Arthur, *Sheriff: Tehama Shooter Built His Own Illegal Guns*, RECORD SEARCHLIGHT, (Nov. 15, 2017), <http://www.redding.com/story/news/2017/11/15/tehama-shooter-built-his-own-illegal-guns/868737001/>.

⁵ Dakin Andone, *The Gunman in the Saugus High School Shooting Used A ‘Ghost Gun,’ Sheriff Says*, CNN (Nov. 21, 2019), <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html>.

⁶ Alan Feuer, *Man Arrested Over Threat to Schumer and Vow to ‘Blow Up’ F.B.I.*, N.Y. Times (Nov. 10, 2020), <https://www.nytimes.com/2020/11/10/nyregion/brian-maiorana-threat-fbi-schumer.html>.

⁷ Justin Jouvenal, *Fatal Shooting of Fairfax County Teens Began with a Challenge to Fight, Prosecutor Says*, Wash. Post (Apr. 28, 2021), https://www.washingtonpost.com/local/public-safety/burkard-bond-hearing-fairfax/2021/04/28/076f0f4a-a840-11eb-8d25-7b30e74923ea_story.html.

⁸ Erika Butler, *Edgewood Man Sleeping on Bel Air Sidewalk had ‘Ghost Gun,’ Drugs, Police Say*, Baltimore Sun (Aug. 16, 2019), <https://www.baltimoresun.com/maryland/harford/aegis/cng-ag-belair-gun-arrest-0816-20190816-kqoovj7jhzgbxful3qriywzrme-story.html>.

⁹ Kyle Cooper, *Long Prison Term for Maryland Man Who Sold Untraceable Guns to Criminals*, WTOP News (Dec. 4, 2019), <https://wtop.com/montgomery-county/2019/12/long-prison-term-for-maryland-man-who-sold-untraceable-guns-to-criminals/>.

“Baltimore and suburban Maryland” have “said they are seeing more of the weapons.”¹⁰ In a 2020 investigation, Fox45 News Operation: Crime & Justice found that sales of ghost gun kits to Maryland quadrupled over a four year period, with over 12,000 kits representing more than a million dollars sold from 2016 through 2019.¹¹ That same investigation also found that the number of ghost guns recovered from crimes was sharply increasing, with particular spikes in Prince George’s County and Baltimore.

That trend has continued throughout the pandemic, and ghost guns are used more and more frequently in horrific acts of violence.¹² Just two weeks ago, a teenager in Montgomery County shot a classmate in a school bathroom with a ghost gun he built from parts he ordered online.¹³

The federal government has begun a rulemaking process that would go a long way to addressing the ghost gun problem.¹⁴ But there simply is no time to wait: the crisis is here, and it is acute.

ADDRESSING THE PROBLEM WHILE ACCOMMODATING HOBBYISTS

House Bill 425 would cut the supply of ghost guns off at the source by closing the loopholes that allow them to be sold without a background check or serial number. It would create a system that would ensure that buyers have passed a background check and that the resulting firearm is traceable.

It would thus address the rising danger of ghost guns, but the legislation is carefully crafted to accommodate hobbyists who build weapons in their spare time. The bill includes an explicit exception for the kinds of historically accurate muskets and flintlock firearms and other “antique firearms” that are crafted by historical enthusiasts and hobbyists.¹⁵ These activities would be unaffected by this legislation.

¹⁰ Peter Hermann & Tom Jackman, *District Seeks to Ban ‘Ghost Gun’ Kits as Seizures of Homemade Weapons Soar*, Washington Post (Feb. 27, 2020), https://www.washingtonpost.com/local/public-safety/district-seeks-to-ban-ghost-gun-kits-as-seizures-of-homemade-weapons-soar/2020/02/27/d12be0da-5416-11ea-9e47-59804be1dcfb_story.html.

¹¹ Joy Lepola, *ATF Finding More Untraceable Guns “Ghost Guns” in Baltimore*, Fox 45 News (Nov. 26, 2020), <https://foxbaltimore.com/features/operation-crime-justice/atf-finding-more-untraceable-guns-ghost-guns-in-baltimore>.

¹² Phil Davis, *Baltimore Police Say the Use of Ghost Guns is Increasing, with More Connected to Homicides and Shootings*, Baltimore Sun (June 23, 2021).

¹³ Dan Morse & Jasmine Hilton, *Magruder Student Bought ‘Ghost Gun’ Components Online Before Wounding Classmate, Prosecutor Says*, Wash. Post (Jan. 24, 2022), <https://www.washingtonpost.com/dc-md-va/2022/01/24/magruder-shooting-teen-jailed/>.

¹⁴ Bureau of Alcohol, Tobacco, Firearms and Explosives, Dep’t of Justice, “Proposed Rule: Definition of ‘Frame or Receiver’ and Identification of Firearms,” 86 FR 27720 (May 21, 2021), <https://www.federalregister.gov/d/2021-10058>.

¹⁵ Section 4-201 of the Criminal Law Article, from which this bill takes its definition of “antique firearm,” defines the term to include:

(1) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar ignition system, manufactured before 1899; or

In addition, SB 387 establishes a process by which existing unserialized guns can be serialized and brought into compliance. Individuals in possession of these firearms would have the opportunity to bring the weapons to gun dealers and other companies with a federal firearms license and have them imprinted with a serial number.

Thank you again to the Committee for the opportunity to provide this testimony. I urge you to support this critically important legislation.

Respectfully Submitted,

David Pucino
Deputy Chief Counsel
Giffords Law Center to Prevent Gun Violence

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords, Giffords shifts culture, changes policies, and challenges injustice, inspiring Americans across the country to fight gun violence.

-
- (2) a replica of a firearm described in item (1) of this subsection that:
- (i) is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition; or
 - (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

SB0387-JPR-FAV.pdf

Uploaded by: Natasha Mehu

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 387

February 16, 2022

TO: Members of the Judicial Proceedings Committee

FROM: Natasha Mehu, Director, Office of Government Relations

RE: Senate Bill 387 - Public Safety - Untraceable Firearms

POSITION: Support

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 387.

Senate Bill 387 regulates unserialized firearms and certain unfinished frames and receivers. Anyone found in possession of unserialized firearms or certain parts used to make them is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$10,000, or both.

Unserialized firearms are commonly referred to as “ghost guns” because they circumvent background checks and are nearly impossible to trace when recovered at a crime scene. Under current state and federal law, the parts used to make these guns are not considered firearms and are not subject to the National Instant Criminal Background Check System. Individuals who are prohibited from possessing firearms, such as convicted felons and minors, use this loophole to evade state and federal laws by buying rifle and pistol build kits online and at gun shows. These kits include all of the necessary parts to make a fully functional gun at home. As one former ATF special agent explained, “If you can put Ikea furniture together, you can make one of these.”

These firearms are increasingly being used by violent criminal networks because they are currently not required to have a serial number or other unique identifying information. When law enforcement recovers an unserialized gun at a crime scene, they offer little evidentiary value because they are so difficult to trace. This bill does not seek to ban all build kits and penalize hobbyists and legal gun owners. The bill clearly explains the requirements for serializing the firearm and balances constitutional rights with the public safety threat of unserialized guns.

“Ghost guns” are a growing problem in Maryland and the United States. Originally, these kits were used by a small number of hobbyists and not considered a significant public safety threat. Starting roughly a decade ago, prohibited individuals in states with strong firearm laws who were determined to commit a mass shooting started to exploit this loophole in federal law. For example, the 2013 Santa Monica College shooter used an AR-15-type semi-automatic rifle “ghost gun” he purchased online and completed at home because he was ineligible to purchase a firearm. Similarly, the 2017 Rancho Tehama Reserve perpetrator was out on bail and prohibited by criminal and civil orders from possessing firearms. Using kits he purchased, the shooter constructed two semi-automatic AR-15-type rifles which he used to kill five and injure eleven.

On the streets of Baltimore City, untraceable handguns that bypass the federal background check system have become the weapon of choice. Over the past three years, the number of “ghost guns” recovered from crime scenes has grown exponentially. The Baltimore Police Department seized 30 unserialized firearms in 2019, 128 in 2020, and 324 in 2021.

Unserialized firearms are also a growing problem in our schools and communities because minors can also buy a kit online without a background check. Last August, a 14-year-old Maryland boy killed one young man and injured three teenagers with a “ghost gun” at a basketball court in Germantown. The following month, an Essex high school student was arrested for bringing a 9mm “ghost gun” to Chesapeake High School. Just last month, an 11th grader at Magruder High School in Montgomery County was charged with attempted second-degree murder after allegedly buying a 9mm handgun build kit online, assembling the firearm with a friend, and shooting a 15-year-old student with whom he had an ongoing conflict. A separate incident last month involving an unsecured “ghost gun” by a prohibited felon led to the fatal death of a Westminster teen.

We cannot wait to act any longer. This bill will help Baltimore City and the state of Maryland get ahead of this growing and concerning trend by proactively working to limit the proliferation of untraceable firearms.

We respectfully request a **favorable** report on Senate Bill 387.

2.16 MD Mom Testimony.pdf

Uploaded by: Nicole Hollywood

Position: FAV

Nicole Hollywood
2/16/22 Ghost Guns Hearing

Thank you for this time. My name is Nicole Hollywood. I live in Salisbury, Maryland in District 37 in Senator Eckardt's District. I am a volunteer with the Maryland Chapter of Moms Demand Action. I am also a gun owner, survivor of gun violence, a mother, and an educator.

I took the day off work from my university and drove nearly two hours one way from my home in rural Maryland because I support SB 387. I support SB 387 because ghost guns are available to anyone with a credit card, including prohibited purchasers like domestic abusers and we need to do all that we can to ensure that we are keeping our communities safe.

I understand firsthand that domestic abusers far too often use firearms to coerce and terrorize their victims. I have used the court to obtain a protective order for myself and my children and I appreciate that Maryland law makes it illegal for someone to have a firearm if there is a valid civil protective order issued. But, with the prevalence, and ease of access of ghost guns, domestic abusers are able to circumvent State law and easily obtain a firearm with no background check to prevent their purchase.

Thank you for your time and I ask you for a favorable report out of committee.

SB0387-FAV-DTMG-2-16-22.pdf

Uploaded by: Olivia Bartlett

Position: FAV



Olivia Bartlett, DoTheMostGood Maryland Team

Committee: Judiciary

Testimony on: SB0387 - Public Safety - Untraceable Firearms

Position: Favorable

Hearing Date: February 16, 2022

Bill Sponsor: President Bill Ferguson and Senator Susan Lee

DoTheMostGood (DTMG) is a progressive grass-roots organization with more than 3000 members who live in all districts in Montgomery County and in several neighboring jurisdictions. DTMG supports legislation and activities that keep all residents of our communities healthy and safe in a clean environment. DTMG strongly supports SB0387 because it will ban the purchase and possession of the untraceable “ghost guns” which hurt our communities and make our streets unsafe.

Ghost guns -- guns made from parts available without a background check -- are the fastest growing gun safety problem facing our state and the country today. These firearms, which are assembled from parts and sold in kits on the Internet without background checks, are increasingly becoming the weapon of choice among gun traffickers. Any individual – including teenagers -- with a computer can download a DIY kit and, using only tools found around the house, can make their own pistol, Glock 19, or assault-style rifle, such as AR-15 or AK-47, in just hours. It’s easy and cheap. These guns contain no serial numbers, so they cannot be traced, thwarting the ability of law enforcement to close cases, arrest criminals, and bring justice to survivors of gun violence.

The dramatic increase in the number of ghost guns across Maryland in the last few years is frightening. Montgomery County has seen a five-fold increase in ghost guns in the past few years. Recent shootings at Whitman and Magruder high schools in Montgomery County were by ghost guns. Law enforcement in Prince George’s County seized 264 untraceable ghost guns in 2021, up from just 27 in 2019. Since 2019, investigators in PG County have linked at least 13 homicides, 10 robberies, and 20 aggravated assaults to ghost guns. Baltimore is on pace to seize 700 ghost guns this year, compared to 345 last year, and only 12 in 2018.

The need for clear, comprehensive, and effective regulation of ghost guns has never been greater and is long overdue. SB0387 is common-sense legislation that will help to shut down unregulated sellers who sell ghost gun building kits and traffickers who sell these guns. It will

assist law enforcement and protect all Maryland residents. SB0387 will not apply to antique firearms or guns manufactured before 1968, and a grandfather clause would allow someone with a ghost gun to either sell the firearm to a licensed dealer or have the weapon properly imprinted with a serial number by a federally licensed dealer.

Passage of SB0387 will allow Maryland to keep up with the technology advances that have allowed untraceable guns to proliferate in the state. According to the Giffords Law Center to Prevent Gun Violence, the District of Columbia and 10 states, including California, Virginia and New Jersey, have also enacted laws to at least partially address the problem of undetectable or untraceable guns.

SB0387 also has an important racial equity element. Communities of color are disproportionately affected by gun violence. The more we can do to keep untraceable guns off our streets, the safer all communities, particularly communities of color, will be.

DoTheMostGood therefore strongly supports passage of this important legislation that can help restore safety and peace of mind across the state of Maryland, and **we urge a favorable report on SB0387.**

Respectfully submitted,

Olivia Bartlett
Co-Lead, DoTheMostGood Maryland Team
oliviabartlett@verizon.net
240-751-5599

SB0387_FAV_City of Rockville_Public Safety - Untra

Uploaded by: Pam Kasemeyer

Position: FAV



**Testimony of the Rockville Mayor and Council
SUPPORT
SB 387 – Public Safety – Untraceable Firearms
February 16, 2022**

The Mayor and Council of Rockville thank Chairman Smith and the members of the Senate Judicial Proceedings Committee for the opportunity to provide our perspective on SB 387. We are grateful to Senator Lee for sponsoring this important legislation.

The Rockville Mayor and Council strongly support SB 387. The legislation would prohibit the sale, receipt, and transfer of unfinished frames or receivers that do not have serial numbers. These weapons, known as “ghost guns,” can be easily purchased on the internet without a background check, and are being used more frequently. These weapons are largely untraceable because they lack a serial number, which makes it much more difficult for law enforcement to bring to justice those who use “ghost guns” to commit crimes.

The recent shooting of a fifteen-year-old student at Magruder High School in Montgomery County is a shocking tragedy that should have never happened. The seventeen-year-old student who committed the crime purchased the “ghost gun” on the internet. This incident underscores the danger that these weapons bring to our children and the broader community. In Rockville, the City Police have already recovered three “ghost guns” in 2022.

SB 387 is essential because it would prevent the ability of those who are prohibited by law to possess guns, to circumvent the required background check process, and obtain a firearm. Additionally, Rockville supports the Bill’s penalties of a \$10,000 fine, three years of prison, or both. These are necessary deterrents to stem the use of these dangerous weapons.

SB 387 aligns with Rockville’s highest priority, which is to protect the health and safety of our entire community. We must keep these untraceable and easily accessible weapons out of the hands of those who wish to use them for harm. For these reasons, we urge the Committee to provide SB 387 with a favorable report and forward the legislation to the full Senate for a vote as soon as possible.

SB 387 BPD Support.pdf

Uploaded by: Richard Worley

Position: FAV



BALTIMORE POLICE DEPARTMENT



Brandon M. Scott
Mayor

Michael S. Harrison
Police Commissioner

TO: The Honorable Members of the House Judiciary Committee

FROM: Michelle Wirzberger, Esq., Director of Government Affairs, Baltimore Police Dept.

RE: Senate Bill 387 Public Safety – Untraceable Firearms

DATE: February 16, 2022

POSITION: SUPPORT

Chair Smith, Vice-Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore Police Department **supports** Senate Bill 387.

Senate Bill 387 adds an unfinished frame or receiver to the definition of “firearm” in Maryland code; mandates that a person may not purchase, receive, sell, offer to sell or transfer an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or importer. The bill also prohibits the possession of a firearm (which will include an unfinished frame or receiver) after January 1, 2023, unless: a) it has been imprinted by a federally licensed firearms manufacturer or federally licensed firearms importer with a serial number; or b) the firearm has been imprinted by a federally licensed firearms dealer or other federal licensee authorized to provide marking services. It also establishes that a violation of the law constitutes a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding \$10,000 or both.

An example of an item covered by this bill, is a “Polymer 80” gun which is essentially a gun that is only 80% constructed. These firearms are assembled by a person using acquired parts or a kit that includes one portion of the gun that is unfinished. This requires the purchaser to perform their own drilling or tooling of the gun in order to make it fully functional. One of the most popular ways to make a polymer 80 gun is by buying pre-made parts and purchasing an 80% lower receiver.

In this scenario, a background check would not be completed because they are only conducted on completed lower receivers. People who cannot legally purchase guns because of being convicted of a disqualifying crime, not being of age, being found mentally incompetent, etc., can currently order a polymer 80 over the internet and have it shipped to their residence.

A couple of statistics to note:

- ✓ In 2018 the BPD seized only 12 ghost guns but in 2021 the Department seized 345! That is a **2,775% increase.**
- ✓ The majority of those retrieved in 2021 were recovered as a result of traffic stops, which shows that criminals were transporting them and keeping them close for use.
- ✓ Of the 345 ghost guns seized in 2021, 32 ghost guns were directly linked to a shooting or homicide and 9 homicide victims had a ghost gun in their possession at the time they were murdered.
- ✓ Overall, 52 ghost guns were linked to other incidents through ballistics and 69 of the privately made firearms were directly linked to an act of violence.
- ✓ Nearly one-fourth of all the ghost guns recovered by Baltimore police in 2021 were from individuals who were not old enough to obtain a firearm - including 3 individuals who were 15 years old or younger. These guns were used by those who were not even of legal age to carry a gun.

Overall, the Baltimore Police Department believes that this bill would greatly assist in the prevention of crimes while also providing the Department with additional tools to help solve crimes of violence. Therefore, the Baltimore Police Department respectfully requests a **favorable** report on Senate Bill 387.

MD SB 387 Testimony.pdf

Uploaded by: Samuel Levy

Position: FAV



Senator Will Smith, Chairman
Senate Judicial Proceedings Committee
Maryland General Assembly
90 State Circle
Annapolis, MD 21401

February 14, 2022

Chairman Smith and members of the committee,

On behalf of Everytown for Gun Safety, America's largest violence prevention organization and the many Moms Demand Action and Students Demand Action volunteers across Maryland, I submit this written testimony in strong support of Senate Bill 387, a bill to regulate ghost guns. This bill is simple, clear, and comprehensive. It will provide state and local law enforcement officials with an invaluable new tool in their fight to stem the tide of untraceable, unserialized guns that is flooding the streets of Maryland communities and killing and injuring far too many Marylanders, including a 15-year-old boy just a few weeks ago. Due to gaps in federal law, the parts and kits used to build these guns can be purchased without a background check and aren't marked with a serial number. This has made ghost guns a weapon of choice for gun traffickers, convicted criminals, violent domestic abusers, armed extremists, and a host of other prohibited persons, who cannot legally purchase or possess firearms. It's high time Maryland closes the gap in the law that has allowed ghost guns to proliferate and kill and injure countless Marylanders. I urge a favorable report.

After years of consideration and amendment, this bill is timelier than ever before. In a few short months, the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") is expected to finalize an update to federal rules that have, due to their current, flawed interpretation of federal law, enabled the mass marketing and unregulated sale of ghost guns. The proposed new rule would clarify the meaning of the term "firearm" under federal law.¹ Federal gun safety laws regulate "firearms," including frames or receivers, the central building blocks

¹ ATF Proposed Rule, "Definition of 'Frame or Receiver' and Identification of Firearms," 86 FR 27720, available at: <https://www.federalregister.gov/documents/2021/05/21/2021-10058/definition-of-frame-or-receiver-and-identification-of-firearms>



that can easily be converted into operable firearms.² Current ATF rules have taken the flawed position that frames or receivers do not qualify as a ‘firearm’ until they have been completely drilled out and are ready to build around, even though unfinished frames and receivers can be made into a firearm in less than an hour.³ These rules have allowed the market for ghost gun parts and kits—unfinished frames and receivers and the parts required to build them into untraceable—to flourish, creating an easy path for prohibited persons to access deadly, untraceable firearms with no background check and no questions asked.

When finalized, these new ATF rules will state that unfinished frames and receivers—the parts that can readily be completed and build into firearms—are “firearms” under federal law, just like finished frames and receivers and fully-built firearms. Once these rules are in place, unfinished frames and receivers will be subject to all the federal regulations applicable to the manufacture, sale, and possession of firearms. When manufactured, they must be imprinted with a unique serial number. They cannot be sold by licensed dealers unless the purchaser undergoes a background check. They will be illegal to possess by anyone who is legally prohibited from possessing firearms. SB 387 is designed to strengthen Maryland law in ways that align with, compliment, and expand upon these forthcoming federal regulations.

As with the forthcoming federal rules, this bill would expand Maryland’s definition of “firearm” to include firearms, finished frames and receivers *and* unfinished frames and receivers. The bill would also employ a clear and precise definition of the term “unfinished frame or receiver,” by using a definition that directly tracks the one that will soon be in place at the federal level. The ATF rules contain an expansive set of factors that should be considered when determining whether an object can “readily” be converted into a finished frame or receiver. The sponsors of SB 387 have thoughtfully crafted the bill so that these factors can be relied upon in the interpretation and implementation of the regulations in SB 387, ensuring consistency with federal law and clear guidance for Maryland courts. Indeed, Maryland courts currently rely on federal law when interpreting the meanings of identical terms in state law.⁴ This approach will

² 18 USC 921(a)(3). This is the same basic framework currently used in the Maryland code. See MD Public Safety Code Ann 5-101(h).

³ “ATF and the Rising Threat of Ghost Guns,” available at: <https://everytownresearch.org/report/atf-the-rising-threat-of-ghost-guns/>.

⁴ See Moore v. State, 424 Md. 118, 131 (Md. 2011), in which the MD Court of Appeals discovered the meaning of “frame or receiver” by referring to ATF regulations.



avoid confusion, ensure clarity, and create a single standard to enable effective and consistent enforcement.

To date, nine states and Washington DC have passed laws like SB 387 to combat the rising threat of ghost guns. Many of those laws use the same approach as this bill—regulating unfinished frames and receivers and ensuring that they are treated just like finished firearms under the law. These states include Delaware, New Jersey, New York, and Rhode Island as well as Washington DC. With only one recent exception, these state laws have consistently been upheld when challenged in court. To date only Nevada’s ghost gun law has been successfully challenged in court. In that case, a state court found that the definition of “unfinished frame or receiver” in Nevada’s law was vague. That ruling is currently being appealed to the Nevada Supreme Court. The definition of ‘unfinished frame or receiver’ in SB 387 has no such vagueness problem. The bill uses plain language—language that precisely tracks the forthcoming federal regulations and aligns with federal law and its extensive explication of what constitutes an unfinished frame or receiver, including the factors that should be considered when making that determination—that makes it far clearer than the language at issue in Nevada. I am confident that the definition in SB 387, particularly when read in conjunction with the forthcoming federal rules, precisely lays out the prohibitions in this important law and would survive any challenges alleging vagueness.⁵

This bill will not impose any undue burdens on Marylanders who wish to assemble their own firearms. The bill doesn’t prohibit the self-manufacture of firearms, nor does it restrict the methods by which firearms can be built. The bill simply requires that the central building blocks of all firearms, self-made or otherwise, be marked with a serial number, in accordance with federal law. Going forward, those who wish to build firearms can still do, and can still begin with an unfinished frame or receiver if that’s their preference. But that part must be engraved with a serial number—either by its commercial manufacturer or by the at-home builder. Federally licensed firearm dealers currently offer engraving services and can provide those services to those who wish to build their own firearms or engrave those they have already built using unserialized parts. Indeed, the forthcoming federal rules will create a new class of federal firearm

⁵ I would urge the sponsors and members of the committee to clarify the legislative intent behind the definition used in the bill, to ensure that, going forward, the Maryland terms are interpreted in a manner consistent with the forthcoming federal rules. It would also be helpful to include that information and details on the federal rules and guidelines in the regulations promulgated by the Secretary to help carry out the provisions of the law.



license for those who wish exclusively to engage in the business of providing engraving services to builders of self-made firearms.

The number of ghost guns recovered by law enforcement officers across Maryland each year has been rising at an alarming rate. By prohibiting future sales of unserialized, unfinished frames and receivers, SB 387 will empower state and local law enforcement, from the Attorney General to the State Police to the Baltimore Police Department, to stop the flow of these untraceable weapons into Maryland communities. By targeting enforcement against online sellers who ship the parts and kits needed to build ghost guns to anyone with a credit card, law enforcement officials can keep the guns out of the hands of gun traffickers, violent abusers, armed extremists, children, and all other people who Maryland and federal law prohibits from possessing firearms. At home builders could continue to access these parts if they wish, provided they undergo the background check and comply with all applicable Maryland and federal laws. These responsible gun owners can not only go on building once the law takes effect, they can also take comfort in knowing that if the weapons they build are ever lost, stolen, or used in the commission of a crime, they will be marked with a serial number that will enable law enforcement to investigate and identify those responsible.

SB 387 will help keep Marylanders safe from the threat of untraceable ghost guns, keep firearms out of the hands of people who shouldn't have them, stymie gun traffickers and others looking to evade Maryland's strong gun laws, and align the state with what will soon become the law of the land—a law that recognizes that parts that can easily be built into deadly firearms are subject to the same regulations as the firearms themselves. The bill is well-crafted and strikes a balance between ensuring public safety and the rights of all Marylanders. I strongly urge the committee to issue a favorable report and advance this life-saving legislation.

Sincerely,

Samuel Levy

Senior Counsel, Everytown for Gun Safety

SB 387 - MoCo_Morningstar_FAV (GA 22).pdf

Uploaded by: Sara Morningstar

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

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SB 387

DATE: February 16, 2022

**SPONSOR: The President (By Request - Office of the Attorney General) and
Senator Lee**

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Sara Morningstar (Sara.Morningstar@montgomerycountymd.gov)

POSITION: SUPPORT

Public Safety – Untraceable Firearms

Gun violence in the United States is a public health issue that cannot be ignored any longer. The alarming rise in “ghost guns” or untraceable firearms confiscated by Maryland law enforcement, aligned with the reported national surge of legal gun purchases made during the pandemic, requires that 2022 be the year for Maryland to adopt legislation to ban ghost guns.

Effective June 1, 2022, SB 387 will ban the purchase, sale and transfer of an unfinished frame or receiver if it does not have a serial number imprinted by a licensed manufacturer. Marylanders who already own these handmade firearms will have until January 1, 2023, to take them to a federally-licensed firearms dealer to have a serial number and manufacturing information engraved on the weapon. Failure to comply with the law will result in a misdemeanor punishable by up to three years in jail and a fine of up to \$10,000. The ban will not apply to guns manufactured before 1968 or to antique firearms.

The danger of these deadly weapons is that they can be easily assembled from components bought online with no required background check, have no serial numbers, and are, therefore, untraceable. These fully functional firearms are often difficult to identify as guns due to their shape or configuration and can evade metal detectors or x-ray machines creating a potential threat to public safety. Tragically, last month’s shooting at Magruder High School involved a 17-year-old using a 9 mm ghost gun purchased online to shoot and seriously harm a fellow student inside the school. And last summer at a recreation center in Germantown, a ghost gun was used by a 14-year-old to fatally shoot a 20-year-old. While it’s not fully known how many ghost guns are used in crimes, Montgomery County Department of Police reports that the number is rising. In 2021, 70 ghost guns were recovered from crime scenes in the County – up from 16 ghost guns in 2019 and 56 ghost guns in 2020.

With increasing incidents of gun violence in Maryland, Montgomery County supports stricter gun safety laws to include untraceable and undetectable firearms. We would urge the Committee adopt a favorable report on SB 387.

SB387_FAV_Lee_2022.pdf

Uploaded by: Susan Lee

Position: FAV

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair Emeritus
Maryland Legislative Asian American
and Pacific Islander Caucus

President Emeritus
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Maryland General Assembly, Inc.



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 16, 2022

Senate Judicial Proceedings Committee
SB 387 – Favorable – Public Safety – Undetectable Firearms

Five Ghost Guns have been found in Montgomery County schools this year alone! It is only the middle of February, and while not the first winter I sponsored similar legislation, the urgency of now is self-evident. SB 387 is Maryland's ban on Ghost Guns based on the pending federal rule to define firearms more accurately to include receivers that could "readily" be finished.

This is not the same bill you have seen in this committee before, because it is based on the pending federal ATF rule – defining firearm to include unfinished lower receivers. That rule will also create a new process for serializing this new class of federally defined firearm. The opposition seems to be stuck in the past, as they are referencing 2020 numbers in testimony and information that I gathered as the sponsor of that bill directly from the police departments that were not even tracking these numbers a few years ago. The Maryland State Police don't compile reports on Ghost Guns, perhaps because some jurisdictions like Anne Arundel County just started tracking those numbers this year. You can save your money on PIA requests and just call the sponsor for information if you can't research effectively. This info was provided to you last session directly by several police departments, but perhaps those facts are inconvenient for your position. This year the numbers are worse, and those numbers are actual human lives, children and people who can't testify to refute your lack of due diligence. Please refer to the Baltimore Police Department's testimony that notes that only 12 ghost guns were seized in 2018, but in 2021 the Department seized 345 – and they have also projected that number to be as high as 700 in 2022 at the current pace. They will explain those scary details. If you are stuck in 2020, you have missed the boat. COVID and the Do It Yourself culture is ingrained in young children now. Are we going to allow mental health concerns and easy access serve as a backdoor loophole to all of the gun laws we have passed in Maryland?

Our job as state legislators got much easier with this issue this session, because we have a federal framework not only for what to define as an unfinished lower receiver – anything that can “readily” be made into a functioning firearm, but also importantly, a new license for adding serial numbers to firearms. This legislation tracks the federal proposed rule closely and our intent is clearly to make sure the state law works with the federal rule in synchronicity so there isn’t a patchwork quilt of regulations to follow. The hard work of years past has been distilled into a simple value judgment. Should guns be serialized in Maryland, or will we let ghost guns haunt us for generations to come? Solving crimes is not easy, we should make solving gun crimes a top priority. SB 387 helps with that effort as law enforcement will also attest to today.

You will hear of the exponential growth police departments are seeing in ghost gun confiscation. We speak of the need for crime reduction and have heard many promising bills in this committee; yet we continue to sit with our heads in the sand when it comes to removing the very tool that creates the deadly crime, all while avoiding the ability to trace that key piece of evidence. Detectives may not be able to solve all crimes, but it would be easier if common sense crime fighting features were included on killing machines.

This legislation simply outlaws possession of a non-serialized firearm. That product would be considered contraband, but with a process to legalize it. Unserialized guns poses a clear and present risk to Marylanders. They should be illegal in our state to possess. Privately Made Firearms (PMFs) are not outlawed under this bill, and while the federal government has not historically regulated these guns, the new ATF rule certainly crosses that threshold and the police powers of the state are even more important to use with this loophole in our law to avoid serialization. If Congress doesn’t choose to act, which seems to be the status quo, we certainly can and must as a state legislature.

The oppositions’ reference to prohibition is laughable, and as I recall from the Ken Burns documentary it was the regulation of the alcohol that allowed protections against dangerous chemicals used. This legislation more akin to banning harmful chemicals in alcohol, than banning drinks themselves. No one is suggesting a ban on firearms, and there are many to choose from. You can even make them, just add a serial number. The 80% kits are completely unjustified as a loophole to get around firearm background checks. As the federal government fixes this critical definition, we as a state must do our part and make sure no child or disqualified person in Maryland gets their hands on a kit that has already been sold. True hobbyists can still buy the kits if they want, but they will require a background check.

Please work with us to protect Marylanders and to help keep these dangerous “firearms” – out of the hands of children, and to serialize all firearms in Maryland to protect generations to come. There are of course reasonable exceptions built into the bill based on current state and federal law. This is not a cure all, but it isn’t a big pill to swallow either. If you believe a PMF is too precious to mark, you might change your mind with a criminal penalty that is equivalent to scratching off a serial number, as criminals do, because it is essentially the same thing. Ghost Guns must be banned in Maryland, but PMFs are not prohibited with a serial number. This year, your choice truly is as simple as that. Please support a favorable motion on SB 387.

Brady.SB387.Support.pdf

Uploaded by: Tanya Schardt

Position: FAV

Brady
840 First St. NE Ste. 400
Washington, DC 20002



Testimony of Tanya Schardt, Senior Counsel and Director, State and Federal Policy
Support for SB 387
Before the Maryland Senate Judicial Proceedings Committee
February 16, 2022

Chairman Smith, Vice Chair Waldstreicher, and Other Distinguished Members of the Senate Judicial Proceedings Committee,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence.

Thank you for allowing us to submit testimony before this committee. **SB 387 provides a strong defense to the proliferation and dangerous impact of unregulated and untraceable guns throughout the state of Maryland.** Maryland's Attorney General has said that more than 25,000 privately made firearms have been confiscated by law enforcement since 2016, and more than 12,000 build kits were shipped to Maryland between 2016 and 2019.¹ It is past time for Maryland to take action - ghost guns threaten the daily safety of Marylanders every single day..

What are Ghost Guns?

"Ghost Guns" are un-serialized and untraceable firearms that can be built by anyone using "unfinished" frames or receivers. These pieces of a firearm contain essential operating parts of

¹ Wainman, Laura, "Maryland Leaders Advocate for Legislation Banning Ghost Guns." *WUSA9*, WUSA9, 25 Jan. 2022, [Lehttps://www.wusa9.com/article/news/local/maryland/ghost-gun-legislation-maryland-ban-attorney-general-frosh/65-98395548-6a72-482a-8ca9-2f7d074cd4d0](https://www.wusa9.com/article/news/local/maryland/ghost-gun-legislation-maryland-ban-attorney-general-frosh/65-98395548-6a72-482a-8ca9-2f7d074cd4d0).

the firing mechanism and are the only part of a gun regulated under federal and Maryland law. However, when a frame or receiver is “unfinished” by a small fraction, it is unregulated — a consequence of ATF not interpreting unfinished components as firearms.²

These receivers, sometimes called “80 percent receivers,” are often sold by online dealers as a part of a kit that includes all of the necessary component parts to turn the unfinished receiver into a fully functioning firearm.³ These parts and kits are designed and marketed to circumvent federal regulations like Brady background checks because they can be purchased by anyone, even individuals who are unable to pass a background check, and thus are prohibited from purchasing a fully assembled gun. This includes domestic abusers, gun traffickers, persons subject to an extreme risk order, and even children and teenagers who can’t purchase a gun by virtue of their age.

The process of converting parts into a ghost gun, whether it be a semi-automatic handgun or an AR-15 style assault rifle, involves just a few steps and can be completed in as little as 15 minutes without the consumer possessing any specialized skill or abilities. Once assembled, ghost guns are just as deadly and dangerous as traditional firearms and anyone can buy these kits without any background check or any other requirements mandated under federal or Maryland state law. Each of these parts and processes have been specifically designed to fall outside of federal, state, and local gun regulations and undermine many existing gun safety laws. These weapons are, by design, perfect crime guns.⁴

Ghost Guns Undermine Existing Gun Safety Laws and Are Designed for Crime

The fact that these kits and parts can be purchased online with no background check, without undergoing any human interaction (like with a federally licensed firearm dealer) also makes them attractive and accessible to individuals who fear they may not be able to pass muster at a responsible, licensed dealer. Ghost gun sellers and manufacturers know all of this and intentionally target prohibited purchasers and other potentially dangerous parties by purposefully emphasizing the untraceable nature of ghost guns - namely, the absence of a serial number and the fact that their products can be purchased without a background check or interaction with a gun dealer as major selling points.

Additionally, these weapons undermine and interfere with criminal investigations because they are unserialized, and are thus, essentially invisible to law enforcement. This means that the

² “Are ‘80%’ or ‘Unfinished’ Receivers Illegal?” *ATF*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, 29 May 2020, <https://www.atf.gov/firearms/qa/are-unfinished-receivers-illegal>.

³ Van Brocklin, Elizabeth. “‘Ghost Gun’ Murders and Trafficking Cases Are a Law Enforcement Nightmare Come True.” *The Trace*, The Trace, 16 Oct. 2015, <https://www.thetrace.org/2015/10/ghost-gun-lower-receiver-california/>.

⁴ “Giffords Law Center Asks Internet Service Providers to Immediately Shut Down Websites for Businesses that Allow Dangerous Individuals to Make Untraceable Assault Weapons with No Background Checks.” *Giffords Law Center to Prevent Gun Violence*, Giffords, 28 Nov. 2017, <https://giffords.org/press-release/2017/11/giffords-law-center-asks-internet-service-providers-immediately-shut-websites-businesses-allow-dangerous-individuals-make-untraceable-assault-weapons-no-background-checks/>. Press Release.

Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) cannot trace ghost guns from the manufacturer/importer to the retail purchaser, making it harder to identify the chain of possession and the eventual end user of a gun recovered from a crime scene. In fact, if found at a crime scene, law enforcement has little means by which to trace the weapons' origin or ownership. This untraceable quality also interferes with law enforcement's ability to identify potential traffickers and to detect in-state and interstate patterns in the sources of crime guns. This makes the parts and kits used to assemble these weapons highly attractive to illegal gun traffickers and those who might purchase from them.

Maryland has worked to pass meaningful gun laws to protect its residents from the scourge of gun violence, but ghost guns threaten this hard won progress by undermining the gun laws currently on the books. This legislation is absolutely necessary to protect Marylanders to ensure that ghost guns do not become an increased source of crime guns in the state, and to guarantee that federal and Maryland laws are not circumvented.

The Rapid Proliferation of Ghost Guns in the United States and in Maryland

Sales of the kits and parts to make ghost guns have increased significantly in recent years and alongside it, the use of ghost guns in crime. According to the ATF, from 2016 through 2020, law enforcement officers recovered more than 23,906 ghost guns from potential crime scenes. The ATF was only able to trace less than 1% (.006)⁵ of these firearms back to an individual purchaser. These weapons have been linked nationwide to homicides,⁶ suicides,⁷ mass shootings,⁸ school shootings,⁹ robberies,¹⁰ the shooting deaths of law enforcement officers,¹¹ and acts of domestic violence.¹²

⁵ "Definition of 'Frame or Receiver' and Identification of Firearms," Vol. 86 No. 97, United States Department of Justice, 27,720-27,753, 21 May 2021, <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10058.pdf>.

⁶ Fenton, Justin. "Baltimore police report a 40% increase in untraceable 'ghost guns' as legislators consider action." *The Baltimore Sun*, Tribune Publishing, 18 Feb. 2021, <https://www.baltimoresun.com/news/crime/bs-pr-md-ci-cr-ghost-gun-ban-20210218-ae2dortu6ngn5llmfmq6yxtx6m-story.html>.

⁷ Hurd, Rick. "Homemade guns in Stanford student's murder-suicide spurs questions on 'ghost guns'." *The Mercury News*, Bay Area News Group, 12 Aug. 2016, <https://www.mercurynews.com/2015/08/06/homemade-gun-in-stanford-students-murder-suicide-spurs-question-on-ghost-guns/>.

⁸ Clayton, Abené. "Ordered online, assembled at home: the deadly toll of California's 'ghost guns'." *The Guardian*, The Guardian News and Media Limited, 18 May 2021, <https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll>.

⁹ Morse, Dan. "Magruder High School Student Charged As Adult With Attempted Second-Degree Murder," *Washington Post*, 22 Jan. 2022, <https://www.washingtonpost.com/dc-md-va/2022/01/22/magruder-high-shooting-ghost-gun-student-charged/> & Andone, Dakin. "The gunman in the Saugus High School shooting used a 'ghost gun,' sheriff says." *CNN*, Cable News Network, 21 Nov. 2019, <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html> & Andone, Dakin. "The gunman in the Saugus High School shooting used a 'ghost gun,' sheriff says." *CNN*, Cable News Network, 21 Nov. 2019, <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html>

¹⁰ Sprouse, Ryan. "Seven teens in DC arrested for armed robbery and 'ghost guns'." *WUSA9*, TENGA, 25 Dec. 2021, <https://www.wusa9.com/article/news/crime/seven-teens-in-dc-arrested-for-armed-robbery-and-ghost-guns-new-york-avenue-ivy-city-motel/65-e571eaaf-bfef-408d-a439-699021dba5c0>.

¹¹ Blankstein, Andrew, and Leonard, Eric. "Ex-con who killed California cop used homemade 'ghost gun'." *NBC*, NBC News, 15 Aug. 2019, <https://www.nbcnews.com/news/crime-courts/ex-con-who-killed-california-cop-used-homemade-ghost-gun-n1042811>.

¹² "Domestic Violence Incident leads to Recovery of Various Ghost Guns NR21291jc." *LAPD Newsroom*, Los Angeles Police Department, 20 Oct. 2021, <https://www.lapdonline.org/newsroom/domestic-violence-incident-leads-to-recovery-of-various-ghost-guns-nr21291jc/>.

A steady supply of ghost guns plagues communities nationwide - and its devastating impact is increasing exponentially with each year. The proliferation of ghost guns and their destructive effects can be seen in communities throughout the state of Maryland: while the Baltimore Police Department recovered only nine ghost guns in 2018, that number skyrocketed to 345 in 2021.¹³ Of these recoveries in Baltimore last year, at least sixty-nine were linked acts of violence, a full 20 percent.¹⁴ During a recent news conference, Baltimore Police Commissioner Michael Harrison stated that the proliferation of ghost guns is “frightening. I could spend hours telling you stories about how these ghost guns hurt our community and make our streets unsafe.”¹⁵ Baltimore is on track to recover 700 ghost guns this year, more than *double* the amount recovered last year.¹⁶

The rise of ghost guns and their effects in Maryland is not exclusive to communities in Baltimore. In Prince George’s County in 2019, officers recovered twenty-seven ghost guns, whereas in 2021 they recovered 264, a nearly 900 percent increase in just two years.¹⁷ Since 2019, ghost guns have been linked to thirteen homicides, ten robberies, and twenty aggravated assaults in Prince George’s County.¹⁸ In yet another stunning example of the overwhelming proliferation of ghost guns in Maryland, Montgomery County’s ghost gun recoveries have increased fivefold in just two years.¹⁹ Montgomery County State’s Attorney John McCarthy explained that “we’re moving in the same direction everybody else is. Unless we address ... ghost guns, all the prior legislation that we’ve passed to regulate guns in our community really becomes meaningless.”²⁰

The rise of ghost guns in Maryland has serious impacts on children and teens in the state. The available data shows that 23 percent of the ghost guns found in Maryland last year were possessed by people under the age of twenty-one, with the youngest being fourteen.²¹ Ghost guns are increasingly becoming the weapon of choice for youth because they can be bought online and easily shipped to their house with no background check necessary. Montgomery County State’s Attorney noted that five ghost guns have been recovered at or near a school already this year.²² Just a few months ago, Montgomery County police found a loaded ghost gun during a K-9

¹³ Wiggins, Ovetta, “Gun-Control Activists Push to Ban Untraceable ‘Ghost Guns’ in Maryland.” *Washington Post*, 25 Jan. 2022, <https://www.washingtonpost.com/dc-md-va/2022/01/25/maryland-lawmakers-ghost-gun-ban/>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Carter, Vic, “More Criminals Are Using ‘Ghost’ Guns to Commit Violent Crimes in Baltimore, Making it Difficult for Police to Trace.” *CBS Baltimore*, CBS, 24 May 2021, <https://baltimore.cbslocal.com/2021/05/24/ghost-guns-violence-crime-police-commissioner-michael-harrison/>.

²² Wainman, *supra* note 1.

search of a fleeing 15-year-old suspect at Northwood High School in Rockville, MD.²³ And just last month, a 17-year old student at Magruder High School in Derwood, MD shot another student in the school bathroom with a ghost gun that was purchased and sent to his home in three packages.²⁴

Conclusion

Plain and simple, ghost gun parts kits are intentionally designed to circumvent the gun laws on the books and hamper law enforcement investigations. This is not an industry for hobbyists, but an industry that targets individuals who want to avoid background checks and mass produce untraceable firearms, and Marylanders are paying the price. It is important to act aggressively to roll back the astounding proliferation of these weapons in Maryland. Waiting another year could mean thousands more of these unregulated and unserialized firearms entering communities all over the state. It is past time to act. For these reasons listed above, **Brady strongly encourages this Committee to vote in favor of SB 387 to save the lives of Marylanders.**

²³ 7NewsStaff. "Police arrest 15-year-old student found with ammo at Northwood H.S., gun located nearby." *ABC7, ABC News*, 17 Nov. 2021, <https://wjla.com/news/local/15-year-old-student-montgomery-county-police-custody-gun-ammunition-northwood-high-school-potential-threat>.

²⁴ VerHelst, Megan, "17-year-old Charged in Magruder High School Shooting: Report." *Patch*, 22 Jan. 2022, <https://patch.com/maryland/rockville/17-year-old-charged-magruder-high-school-shooting-report>; Hannah Gaskill (@hnnhgskll), Twitter (3 Feb. 2022, 11:13 AM), https://twitter.com/hnnhgskll/status/1489272133041606656?s=20&t=_FemtCbWJNYQyOrgWG0QSA.

SB387-Public Safety-Untraceable Firearms .pdf

Uploaded by: Willow Goode

Position: FAV



TESTIMONY TO SENATE JUDICIAL PROCEEDINGS

SB387-Public Safety-Untraceable Firearms

Position: Favorable

By Nancy Soreng

Date: February 16, 2022

The League of Women Voters Maryland urges a **favorable report on Senate Bill 387** which would expand the definition of what constitutes a “firearm”. It would also expand the definition of the following as a “firearm” to include a “certain unfinished frame or receiver; prohibiting a person from purchasing, receiving, selling, offering to sell, or transferring an unfinished frame or receiver, or possessing a firearm on or after a certain date”.

A “ghost gun” according to Everytown for Gun Safety is “a do-it-yourself, homemade gun made from easy-to-get building blocks that can be purchased with no background check and no questions asked. These guns are made by an individual, not a federally licensed manufacturer or importer”. Ghost guns are especially dangerous because they are virtually untraceable and anyone can gain access to them without going through any kind of formal process. This bill would also help to better define what a gun is and hopefully reduce the number of ghost guns in Maryland.

We **support the passage of SB 387** to strengthen regulations of ghost guns making them less accessible to the citizens of Maryland. Lack of identification makes it difficult if not impossible to trace these firearms. For these reasons, we **urge a favorable report**.

SB 0387_Howard Co State's Attorney_FWA 2.14.22.pdf

Uploaded by: Rich Gibson

Position: FWA



SENATE BILL 0387

Public Safety-Untraceable Firearms

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

POSITION: FAVORABLE WITH AMENDMENT FOR SB 0387

February 14, 2022

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association (hereinafter MSAA). Part of my obligations as State's Attorney is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today to offer my support for Senate Bill 0387. It should further be noted that the MSAA is a politically diverse group comprised of the elected prosecutors throughout the State; we unanimously support House Bill 0425 and Senate Bill 0387 (cross filed). This bill receives unanimous support from our organization because all elected Maryland State's Attorneys agree that ghost guns are a serious issue, posing a significant public safety threat requiring us, and hopefully you, to act.

Firearms registration ensures owner accountability and help law enforcement solve violent crime. Registration of handguns discourages illegal sales and allows law enforcement to trace firearms and firearm evidence (shell casings and projectiles found on crime scenes) back to owners. When registration is combined with the National Integrated Ballistic Network (hereinafter NIBIN), law enforcement has the ability to link firearms and firearm evidence (casings & projectiles) found at crime scenes to individuals. However, ghost guns circumvent our gun laws and accountability. Ghost guns are untraceable because they are not linked to any person and are acquired ***without*** a background check. This results in putting lethal weapons in the hands of gun traffickers, domestic abusers, and other individuals prohibited by our laws from possessing firearms due to their prior criminal conduct.

This bill, if passed, will provide regulation and criminal consequence to the purchase, sale, transfer, or possession of an unfinished frame or receiver unless, consistent with federal law, the unfinished parts have been imprinted with a serial number. We would strongly suggest amending this bill by removing the clause in section 5-703(b)(1) referencing federal laws. The criminalization of the possession or sale of an unfinished frame or receiver that has not been imprinted with a serial number by a licensed firearms manufacturer or importer should be the entirety of the crime. Statutory construction of the current bill would require prosecutors to prove a violation of the federal laws in order to proceed against an individual in State court. This is an unnecessary burden which weakens the law significantly and it should therefore be removed.

With this proposed amendment SB 0387, we would see a significant step forward in keeping our community safe and lessening violent crime. For these reasons, **I respectfully request a favorable report with amendment to SB 0387.**

SB387 Amedment.BCSAO.pdf

Uploaded by: Yousuf Ahmad

Position: FWA

STATE'S ATTORNEY
Marilyn J. Mosby



OFFICE of the STATE'S ATTORNEY for BALTIMORE CITY
120 East Baltimore Street | Baltimore, Maryland 21202

SB387 Amendment

Senator Will Smith,
Chair JPR
Miller Senate Building
11 Bladen Street
Annapolis, MD 21401

SB387 Public Safety – Untraceable Firearms

Dear Chairman Clippinger,

I am writing to express my support for SB387 with the following amendment.

Amendment:

Removing the clause in section 5-703(b)(1) referencing federal laws. The criminalization of the possession or sale of an unfinished frame or receiver that has not been imprinted with a serial number by a licensed firearms manufacturer or importer should be the entirety of the crime.

5-703.

5 (A) A PERSON MAY NOT PURCHASE, RECEIVE, SELL, OFFER TO SELL, OR
6 TRANSFER a firearm UNLESS it
HAS BEEN, IMPRINTED WITH A SERIAL NUMBER BY A
8 FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED
9 FIREARMS IMPORTER IN COMPLIANCE WITH ALL FEDERAL LAWS AND
REGULATIONS APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS.
11 (B) ON OR AFTER OCTOBER 1, 2022, A PERSON MAY NOT PURCHASE, RECEIVE,
SELL, OFFER TO SELL,
6 TRANSFER or POSSESS ANY NEW FIREARMS UNLESS:
13 (1) the firearm Has BEEN, IMPRINTED BY A FEDERALLY LICENSED FIREARMS
MANUFACTURER OR FEDERALLY LICENSED FIREARMS IMPORTER WITH A SERIAL
NUMBER.

On or before Jan. 1st 2023, A PERSON MAY NOT PURCHASE, RECEIVE, SELL, OFFER TO
SELL, OR
6 TRANSFER or possess a firearm UNLESS it
HAS BEEN, IMPRINTED WITH A SERIAL NUMBER BY A
8 FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED
9 FIREARMS IMPORTER IN COMPLIANCE WITH ALL FEDERAL LAWS AND
REGULATIONS APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS

We look forward to discussing this with you further.

Thank you for your consideration.

Art_Novotny_UNF_SB387.pdf

Uploaded by: Art Novotny

Position: UNF

Testimony of Art Novotny in OPPOSITION to SB387

The undeniable problem is firearms, "traceable" or not in the hands of dangerous and otherwise prohibited persons. No one is arguing against that. If this bill only applied to prohibited persons, I do not think anyone would oppose it. As written, however, it unfairly restricts and threatens pretty much everyone EXCEPT prohibited persons.

I built one of these Poly80 kits, and I can assure you that it is no more or less dangerous than any other firearm in my collect. It has no additional supernatural abilities and will never find its way into the hands of a criminal or prohibited person. I don't need additional laws to ensure that.

Alter SB387 to "go after the bad guys," and leave us good folks alone...or just don't pass it.

Thank you,
Art Novotny
Aberdeen, MD

HB425_SB387 Testimony.pdf

Uploaded by: Ashley Dummitt

Position: UNF

***Letter of Information - HB425/SB387 - Public Safety - Untraceable Firearms
Position: Unfavorable***

February 15, 2022

Dear Chairman Smith and Committee Members,

Thank you so much for allowing me the time to testify against SB387 today. My name is Ashley Dummitt and I am a senior Political Science major at Washington College. I am currently conducting my senior capstone on the constitutionality of the regulation of modern firearms technology, including homemade or 'untraceable' firearms.

SB387 is unconstitutional, as the right to construct one's own firearm is protected under the Second Amendment. With this said, this bill will not stop the self construction of firearms. Over 2/3 guns used in violent crimes in Baltimore are not purchased in Maryland. Considering that firearms themselves are being purchased from out of state, the kits needed to construct a homemade gun can also be mailed to an out of state address. The people that are purchasing guns out of state already are violating the law by doing so. Adding this extra barrier will not change anything and these frames will still remain just as accessible. There are already laws in place prohibiting minors, criminals, and other regulated groups from obtaining firearms, including homemade ones. If a member of these regulated communities comes in possession of one of these firearms, it is already illegal for it to be in their possession and they can and should be charged. The only people that will be affected by this bill will be law abiding citizens that would be at risk of becoming criminals for owning the same guns that are currently legal to own.

Another reason this bill is unconstitutional is that it changes the state's definition of firearm to include 'unfinished frame or receiver'. This does not make sense, as although these lowers may be 80% completed, what is not discussed is that these frames do not have a trigger, and are just a piece of metal without the other 20% of intricate detail being finished, which is extremely hard to do without proper machinery. Not to mention, these kits are extremely expensive and typically are over double the cost of the same firearm completed. For example, a standard Glock 43 frame including all of the parts required to assemble, all being single use, would cost roughly \$653.96, whereas the MSRP for the same gun in function, completed, would only be \$199. This information was acquired through looking up the cheapest option for each part required to assemble a functional Glock 43 from the kit sold on their website.

The argument that kids purchase, construct, and use these firearms is an overreach, as these firearms are an extremely excessive and impractical way to achieve their goals per the arguments previously stated. I am a resident of Kent County, and on Monday, a high school student was unfortunately injured in a stabbing incident at Kent County High School. In correlation with this data, a 2021 study from the FBI shows that more people were killed by hands, fists, and knives last year than firearms. If someone has malicious intent, this bill will not stop them from achieving their goal. I thank you for your time and respectfully urge an unfavorable report of SB387.

Kind Regards,

Ashley Dummitt, Student

ashleydummitt@gmail.com, (860) 302-5801

SB0387 Testimony.pdf

Uploaded by: Austin Ceresi

Position: UNF

Making firearms illegal for Marylanders to build at home will not only be a gross violation of constitutional rights and American traditions, but will also not accomplish any goals of reducing crime, and put many responsible citizens in violation of the law simply by continuing to possess their legally owned property.

The goal of reducing violence will not be served by SB0387 simply because felons are already breaking multiple laws to be in possession of firearms. It is illegal for felons to possess, carry, make, and use firearms. A felon who is already breaking multiple laws will not be deterred by an additional law. Many firearms used in crime are stolen, which is already against the law. How would this bill in any way change that dynamic? Shouldn't that problem be addressed before hobbyists and legal gun owners are targeted by an overarching law prohibiting the home building of firearms?

The vast majority of privately made firearms are in lawful common use by law-abiding gun owners. Whether it be for customization for competition, or to enhance a collection, there are an infinite number of practical uses for home built firearms. There are certain collectible firearms that can only be owned by building them at home. For example, many WW1 and WW2 era firearms were destroyed, and only parts remain today. If someone wishes to own an example of these rare firearms, they would have to be assembled by an individual from existing parts, while other parts would need to be made from scratch. This bill would make all of these types of firearms illegal to own, or make in the future.

There are likely many hundreds of thousands of unserialized firearms legally owned by law-abiding Maryland citizens who use them daily for lawful purposes. There is no reason to penalize these gun owners by requiring engraving that will cost them, in most cases, \$50+ per firearm that they already own. Why should this cost be thrust upon legal gun owners retroactively?

In many cases, it is not possible to engrave alternative materials (such as ABS and PLA plastics) according to ATF guidelines. Therefore, any currently legal firearm frame owned by law-abiding citizens made from materials such as ABS and PLA would likely not be able to be compliant with SB0387.

The ATF has long held that the 80% threshold determines at what state of manufacture that raw materials become a firearm. This is the point where it has long been established by the ATF that a firearm can "readily be completed." The current 80% threshold is objective and enforceable. The proposed SB0387 5-701 (H) (1) doesn't provide an objective definition of "MAY READILY BE COMPLETED" and should defer to the long-established ATF 80% definition. Under SB0387, any chunk of metal or plastic could be considered a firearm arbitrarily.

SB0387 generates significant burden on citizens, FFLs, and non-FFL manufacturers with minimal benefit. There is no evidence presented that being able to more easily trace unserialized firearms would provide any crime-reduction benefit. The minimal speculative benefit of this proposed rule doesn't justify the significant burden that further infringes on the 2nd Amendment rights of citizens in Maryland.

If unserialized firearms are being unlawfully manufactured, creating additional rules and levying requirements will have zero effect on the unlawful manufacturer since they are already violating federal law. If a felon is already willing to possess a firearm knowingly and illegally, and use it to commit a violent crime, why would they bother to put a serial number on it, and why would they have any reservation to manufacturing it?

“UNFINISHED FRAMES OR RECEIVERS” often require significant machining on multiple/all faces of the item which may obliterate any existing markings on the raw castings/forgings. Once completed, certain designs may be susceptible to damage due to the force used to create the stampings of serial numbers.

SB 387, Untraceable Firearms, 2022, Sharpless.pdf

Uploaded by: Bradford Sharpless

Position: UNF

DATE: February 16, 2022
BILL NO.: Senate Bill 387
COMMITTEE: Judicial Proceedings
TITLE: *Public Safety—Untraceable Firearms*
POSITION: Oppose

Testimony from: Bradford V. Sharpless
316 Townleigh Road
Reisterstown, MD 21136
Registered Democrat, District 10

SB 387 would make it a crime to possess a homemade firearm that is not marked with a serial number issued by a federally-licensed firearm manufacturer. If passed, this bill will likely result in otherwise law-abiding citizens being caught unaware and charged with a serious crime, while doing little to suppress criminal violence. Additionally, the only path that the bill provides for the retention of currently-owned homemade firearms is to have the firearm marked with a serial number issued and engraved by a federally-licensed firearm manufacturer. It is not clear that there are any federally-licensed firearm manufacturers in Maryland who are both willing and able to provide this service. I request an “unfavorable” vote on SB 387.

SB0387 Testimony.pdf

Uploaded by: Brent Amsbaugh

Position: UNF

My name is Brent Amsbaugh. I am a US Navy veteran, husband, and father of three young daughters. I enjoyed the opportunity to discuss this matter via virtual testimony last year. I am unable to make it this year, and am submitting written testimony in opposition to SB0387.

I believe in putting the bottom line up front. This bill will end up sending me, and many like me, to prison. It is unacceptable to me that this bill criminalizes a right that Americans have had since colonial days. As technology has progressed, building your own firearms has become easier, but the vast majority of the guns in private hands are used for lawful purposes. These guns are in common use, and do not represent a larger threat to public safety. I will not, under any circumstances, surrender any arms to the state, or pay any fines for property that I have previously owned legally.

There is an article on <https://bearingarms.com/tomknighton/2022/02/12/us-marshall-ghost-gun-n55367> that is worth a read. In short, it quotes a US Marshal as saying: "However, the impact of the proposed ghost gun ban is being questioned by those on the front lines of the crime war.

"If you eliminated all ghost guns you're still going to have a big crime problem," said U.S. Marshal Johnny Hughes.

Hughes believes the only action which will have an impact on the city's soaring homicide rate, is focusing on the users of illegal guns instead of the guns themselves.

"The gun doesn't shoot people, it's the violent offender pulling the trigger who we need to go after," said Hughes."

Doing away with privately made firearms will NOT deter crime in Maryland. You only need to check out the FBI crime stats in order to figure that out.

Respectfully,

Brent Amsbaugh

SB0387_Brian_Caine_unf.pdf

Uploaded by: Brian Caine

Position: UNF

SB0387

Brian Caine

Position: Unfavorable

Today I am writing to express my opposition to SB0387 "Untraceable Firearms".

The bill is an uninformed attempt to restrict common routes by which law abiding hobbyists exercise their 2nd amendment rights. It does not further its implied goals of reducing illegal access to firearms and only practically serves to disarm lawful gun owners.

Privately manufacturing firearms from parts kits is a popular hobby among some gun owners and it is protected by the 2nd amendment in some form by the Supreme Court Heller decision (due to its long history as a common, lawful practice in the US).

The fundamental problem with this bill is that it does not address an actual problem. The truth is that privately made firearms are not a significant source of illegal firearms for the crime market.

While "untraceable firearms" certainly sounds scary, the concern shows a serious misunderstanding about how firearms come to be used in crime and where they're sourced.

Ultimately, criminals do not care about the legality of their firearms and they certainly do not select for that when acquiring them. In 2016, only around 10% of guns used in crimes were actually purchased in a retail environment by the criminal in question. The vast majority of guns used in gun crimes are sourced from burglaries, stolen from victims, and other sources where the final user doesn't have a choice about what gun they'll receive. They are already breaking the law at this point. They'll take all comers at this point, serial number or not.

What they do care about is economics and ease of acquisition. Privately made firearms are hobbyist products. They are not easily completed. They require lots of drilling, working with power tools, assembling and testing. It's quite easy to just outright ruin a firearm project (drill the wrong hole) and have to start over. The idea that "if you can build ikea furniture, you can build a ghost gun" is silly.

This is not attractive to the vast majority of gun criminals out there. Gun criminals are not going to spend \$500 for a Glock slide and hours in manufacturing and test firing at the range just for a gun without a serial number; they're going to illegally purchase a \$200 Hi-Point from a shady illegal gun market and be done with it.

It is likely that public hysteria, fed by Hollywood stereotypes, is the driving motivation behind this law. It's similar to how many voters see a rifle with black trim as more "scary and military" compared to the same rifle with wood trim looking more "folksy and like grandad's hunting rifle". "Untraceable firearms" are the same phenomenon.

We can't let Hollywood plot points drive public policy.

All this law would serve to do is antagonize peaceful, law abiding gun owners in Maryland. (and boy, do Maryland gun owners know the law!) It would prompt lawsuits and outcry and only drive a wedge between all kinds of law abiding citizens. And for what? To criminals, the existence of the serial number might as well be a cosmetic detail.

I do believe that most of us want Maryland to be as safe as possible. We should be coming together to further that aim. But this law (and any other laws based on Hollywood hysteria) does not help.

I want Maryland law enforcement to spend its budget pursuing firearms that are actually a menace to public health. I do not want them wasting their budget fighting lawsuits about a type of gun that really isn't the problem.

Minor Issues

Beyond the big picture issues I've addressed above, the law is unworkable even if one accepts its premise.

To begin with, its definition of "unfinished frame or receiver" is an article that "... may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm". The "may readily be converted" language mirrors the ordinary definition of firearm from the Federal Gun Control Act of 1968 ("may readily be converted to expel a projectile ..."), which is also similar to Maryland's current definition of a firearm.

On the Federal and Maryland level, current law does not consider products marketed as 80% lowers to be readily convertible to firearm frames. Indeed, that's why they're able to be sold as freely as any other chunk of metal; legally they're paperweights.

The ATF's Firearms and Ammunition Technology Division already officially recognizes many 80% lowers as not firearms, ie they are not considered to be readily convertible.

What does this law actually do? If nothing, then fair enough. But I suspect that this bill intends to interpret the meaning of this phrase in an unconstitutionally vague and overbroad manner.

The bill also offers a secondary definition, which relies on the part being "marketed [...] as the frame or receiver of a functional firearm once completed...". This is extra silly. Wooden firearms receivers exist. If someone is marketing a hunk of wood as a potential receiver, does that make it true? This part of the definition is vague and overbroad to the point of meaninglessness.

The bill also does not offer a practical way for many existing gun owners to grandfather their firearms in. Getting the firearms serialized is presented as an option, but there's no guarantee that the service will exist and it certainly may be cost prohibitive. It also doesn't cover firearms made of alternative materials that aren't amenable to being serialized.

Final Word

Overall, I have serious concerns about the motivations behind this bill. I'm really worried that my elected representatives see this cynically as a cheap way to score some political points, and they're willing to just toss law abiding gun owners out. Law-abiding gun owners are not the enemy. We should be working together to address genuine contributors to Maryland crime.

I really urge everyone involved to vote against passing this bill.

SB0387_Testimony_Accuforge_20220215.pdf

Uploaded by: Chris Cockrum

Position: UNF

Chris K Cockrum
Accuforge (FFL-07)
Odenton, MD
<https://accuforge.com>
ckc@accuforge.com

Re: Comments on SB0387

- There is a currently proposed rule "Definition of Frame or Receiver and Identification of Firearms" (2021R-05) that conflicts with SB0387. The MGA shouldn't pass legislation that conflicts with ATF proposed rules and should wait until this is resolved at a federal level.
- The ultimate goal of reducing violence will not be served by SB0387 simply because felons are already breaking multiple laws to be in possession of firearms. It is illegal for felons to possess, carry, make, and use firearms. A felon who is already breaking multiple laws is unlikely to be deterred by an additional law.
- The vast majority of privately made firearms are in lawful common use by law-abiding gun owners. It is already illegal for criminals to possess and use guns in crimes. Adding additional regulations on the law-abiding has no effect on criminals. In fact, as in Haynes v. United States, the additional proposed requirements would likely not apply to convicted felons since this would be viewed as self-incrimination.
- There are likely many hundreds of thousands of unserialized firearms legally owned by law-abiding Maryland citizens who use them daily for lawful purposes. There is no reason to penalize these gun owners by requiring engraving that will cost them, in most cases, \$25+ per firearm that they already own.
- In many cases, it is not possible to engrave alternative materials (such as ABS and PLA plastics) according to ATF guidelines. Therefore any currently legal firearm frame owned by law-abiding citizens made from materials such as ABS and PLA would likely not be able to be compliant with SB0387.
- Although the number of recovered firearms without serial numbers has risen, the violent crime rate hasn't increased at a similar rate. If unserialized firearms were fueling an increase in violent crime, the violent rate would have increased proportionally to the increase in recovered unserialized firearms.
- This proposed rule will significantly impact my small business. This will increase the cost of gunsmithing work on many firearms, significantly increase record keeping requirements, and likely affect my ability to expand my company's capabilities due to increased costs and lower profitability.
- The ATF has long held that the 80% threshold determines at what state of manufacture that raw materials become a firearm. This is the point where it has long been established by the ATF that a firearm can "readily be completed." The current 80% threshold is objective and enforceable. The proposed SB0387 5-701 (H) (1) doesn't provide an objective definition of "MAY READILY BE COMPLETED" and should defer to the long-established ATF 80% definition.
- This proposed rule generates significant burden on citizens, FFLs, and non-FFL manufacturers with minimal benefit. There is no evidence presented that being able to more easily trace unserialized would provide any crime-reduction benefit. The minimal speculative benefit of this proposed rule doesn't justify the significant burden that further infringes on the 2nd Amendment rights of citizens.
- Many FFLs won't have the capability to mark firearms with serial numbers and will be unable to acquire and ship non-serialized firearms to other dealers for customers.

- If unserialized firearms are being unlawfully manufactured, creating additional rules and levying requirements will have zero effect on the unlawful manufacturer since they are already violating federal law and adding serial numbers only serves to create additional risk of discovery.
- In many cases of custom unserialized firearms, it is difficult for FFLs to determine how to safely serialize them using the stamp method given as an example since it deforms the metal under the stamp which weakens it. For custom firearm designs, the safety of the firearm may be compromised if the marking are placed in critical areas.
- “UNFINISHED FRAMES OR RECEIVERS” often require significant machining on multiple/all faces of the item which may obliterate any existing markings on the raw castings/forgings.

A handwritten signature in blue ink that reads "Chris K Cockrum". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Chris K Cockrum
Owner

TOSCANO_ Written Testimony on SB0387 Untaceable Fi

Uploaded by: Christopher Toscano

Position: UNF

Written Testimony on SB0387 "Public Safety-Untraceable Firearms"

*****UNFAVORABLE*****

(But possibly Favorable if suggested amendments are made)

Christopher D. Toscano, Ph.D., DABT
6048 Stevens Forest Rd
Columbia, MD 21045
410-908-2518
Chris_toscano@hotmail.com

I am writing today to express my OPPOSITION to SB0387 ("Public Safety-Untraceable Firearms") in its current form and I am asking for an UNFAVORABLE report by the committee. However, I have one recommendation on how an amendment to the bill could CHANGE MY REQUEST FROM UNFAVORABLE to FAVORABLE WITH AMENDMENTS.

First, I should say that struggled with the categorization of my recommendation. I feel that there is some room for compromise on this bill, but I absolutely cannot provide it with anything but an UNFAVORABLE recommendation in its current form.

I am a law-abiding gunowner, I hold a Federal Firearms License 03, and I enjoy 3D-printing. In fact, I own a 3D-printing business which is a registered LLC in the state of Maryland. Given that I am a firearms hobbyist, I can see the allure of home-made firearms, although I have never made one myself. I also understand the depth of the alleged problem with crime and untraceable firearms. I absolutely agree that the violence in our state is out of control, and something must be done to stop it. However, infringing on the rights of law-abiding gunowners and firearm hobbyists is not the way to accomplish this goal. We all know that criminals do not care about laws, it is what makes them criminals. The only people that will be punished by this bill in its current form are the tax-paying, law-abiding citizens of Maryland.

I have one recommendation for an amendment of this bill that would make it more palatable to gun owners and firearm hobbyists, such as myself. The bill takes the right approach by requesting serialization of homemade firearms; however, the process that leads to an outright banning of new manufacture of homemade guns needs to be rectified in the bill. **I recommend that the Jan 1, 2023, deadline currently contained in SB0387, which bans the possession of unserialized firearms, be removed from the bill and replaced with a process like one that exists in California's current regulation on unserialized firearms.**

The process in California is rather simple and would result in the same endpoint that the Maryland bill is attempting to achieve; registration of regulated firearms through a process like the 77R process for handgun ownership. In California, if a law-abiding citizen wants to make a homemade firearm, they first must apply to the State of California for a serial number; this process involves going through a background check (<https://oag.ca.gov/firearms/usna>). Including a process identical or like the one used in California for registration of homemade firearms would be an acceptable compromise as it allows for registration of unserialized firearms while simultaneously preserving the right of law-abiding citizens to continue to make homemade firearms for their personal use.

I request that you consider amending SB0387 as suggested above, and I thank you for your time and consideration of my comments.

Sincerely,
Christopher D. Toscano, Ph.D., DABT

DC-W_SB387_UNF.pdf

Uploaded by: Daniel Carlin-Weber

Position: UNF

Daniel J. Carlin-Weber
SB387 Public Safety – Untraceable Firearms
Unfavorable
2/16/2022

I am a professional firearms instructor and advocate of responsible firearms handling and ownership. I teach through my Baltimore City-based company, C-W Defense, and hold numerous credentials related to firearms instruction including being recognized as a Qualified Handgun Instructor by the Maryland State Police. Since 2016, I have taught Marylanders from all walks of life how to safely operate firearms and the responsibilities that come with them. I am also an owner of firearms that I have made myself and come before you today to urge an unfavorable report of Senate Bill 387.

SB387 and its House counterpart, HB425, take a much more heavy-handed approach than similar bills from the last General Assembly Regular Session in targeting “privately made firearms,” “homemade firearms,” or so-called “ghost guns”. Two of those bills from last year, SB624 and HB638 (also the re-purposed SB190), allowed current owners to serialize their privately made firearms on their own and created civil penalties for first-time offenders for those who didn’t. Subsequent offenses would be criminally punishable. These bills, however, do what many politicians have assured no one is doing to gun owners; *coming to take their guns*. While giving the appearance of a pathway for current possessors to keep what they’ve always had the legal ability – and indeed right to have – the bills make failure to comply a life-changing criminal act. All Marylanders who’ve made any gun themselves, even if they’ve serialized it on their own, face having to discard their property by January 1st, 2023, or leave themselves vulnerable to up to three (3) years imprisonment and up to a \$10,000 fine **per count**. Likewise, any unserialized unfinished

firearms frames and receivers cannot be acquired after June 1st, 2022, and possession of them if they are not serialized in the prescribed manner after January 1st, 2023, is criminal.

Beyond suddenly and permanently criminalizing an act that has always been lawful (the making of one's own firearm for personal usage), the bill should be given an unfavorable report for its difficult pathway to compliance, its strict liability penalties, for its ripeness for abuse by law enforcement, and vagueness. These bills remove any legal ability of an individual who isn't a federally licensed manufacturer from making their own guns **completely**, even if they did not use an 80% receiver or kit. If someone has the skills, tools, and design acumen, or even if they're just curious, they're out of luck. The bills require that any gun be assembled exclusively with serialized receivers made by licensed manufacturers. Make a gun any other way and face imprisonment.

Making one's own gun has always been legal in the United States and indeed, Maryland. A maker or owner must not be legally prohibited from firearms possession and the gun itself must comply with all federal and state laws. As law professor Josh Blackman wrote in the Tennessee Law Review:

“In light of *Heller* (*District of Columbia v. Heller*, 554 U.S., 570 (2008)), a personal right to make one's own arms for individual use has a much stronger constitutional pedigree than the right to buy and sell arms from others, especially in the commercial context. There are no “longstanding prohibitions” on making a gun for oneself. Americans have been making their own guns since the founding of the Republic. This practice, deeply rooted in our nation's history and tradition is fairly well-established. Today, it is legal to make a gun for personal use, with very limited exceptions. In contrast, the sale of firearms has been burdened much more heavily than the right to make firearms.”

- *The 1st Amendment, 2nd Amendment, and 3D Printed Guns*, *SSRN*, (2014, June 15) p. 496, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2450663.

The manner of production has mostly not mattered, whether it be via welding metal parts together, removing metal from an unfinished receiver (i.e., common 80% receivers), 3-D printing, or by any number of possible methods. As a result, there are an untold number of homemade firearms in Maryland. The General Assembly has never required that these arms be registered or accounted for in any way. There lacks an all-seeing authority with the ability (physically and legally) to peer into every person's gun safe, basement, garage, or kitchen to find them. Some of these items have, however, been serialized by their owners and voluntarily registered with the Maryland State Police (MSP) or even with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) if they were lawfully made into and registered as items in compliance with the National Firearms Act of 1934 (NFA).

With few exceptions, SB387 completely bans the possession of any homemade firearm or the parts for them that a Marylander might currently have, going all the way back to *before* 1968. Those exceptions require that a Class 07 Federal Firearms Licensee (FFL) inscribe the firearm or "unfinished frame or receiver" in line with height, depth, and other requirements demanded by 18 U.S.C. § 923(i) and related federal regulations, but with the first three and the last five digits of the FFL's FFL number and "another number." This requirement exists regardless of whether the item(s) have been serialized by the maker or if the items are already registered with a regulatory body. The numbers *must* be placed by an FFL in the manner the bill describes **or else**. Eligible dealers are not required to offer such a service and if they do, may charge any price they'd like. This "grandfather clause" for items already possessed is deliberately unwieldy and no compensation is offered to anyone who is forced to dispossess themselves of firearms they may have made. The Attorney General has said in statements (<https://youtu.be/EEic6ik94Tg?t=324>) and elsewhere that these guns can be sold, but there is rampant confusion among gun owners and the

public on the legality of selling or transferring homemade firearms. The United States Court of Appeals for the Fifth Circuit has deemed the practice completely illegal. See *Defense Distributed v. United States*, 838 F.3d 451, 454 (5th Cir. 2016). Even if it is legal to sell these arms, that would require a federally licensed dealer to facilitate the sale. Nothing in SB387 compels dealers to handle such sales and if they do not or cannot for whatever reason, the potential seller is left having to discard what they made or face criminal sanction. These are offered as choices law-abiding citizens must make, but there is no choice here for Marylanders who lack the access or means to serialize every gun or part they have. As is usually the case with Maryland gun laws, the onus is always on current or potential gun owners and the State leaves little to no help for them. Manage to comply on your own dime, discard your belongings, or face going to prison.

It's also worth mentioning that SB387 lacks any scienter at all. It doesn't matter if someone finds out on January 1st, 2023, that they were supposed to comply with the bill's demands – prison. It doesn't matter if the owner was overseas on assignment and returned too late to comply – prison. For whatever reason, failure to comply means prison. Too bad. This despite that the General Assembly's Task Force To Study Crime Classification and Penalties recommended requiring *mens rea* by default in criminal statutes in their interim report from December 2020. <https://bit.ly/34qJwvY>. The Maryland Court of Appeals has likewise recently recommended to the General Assembly in *Lawrence v. State*, 475 Md. 384, 408, 257 A.3d 588, 602 (2021) that *mens rea* be incorporated into Maryland's restrictions on the wearing, carrying, and transporting of regulated firearms, Md. Criminal Law § 4-203(a)(1)(i). "Guns are bad" cannot and should not be the basis for casting aside due process protections and if someone is to be sent away to prison for a crime involving a gun (or any crime), a showing that they *actually* meant to commit the act should be required.

Maryland's approach of criminalizing more gun ownership has not changed much in the last 50 years. In 1972, the General Assembly was likewise in a time of responding to public outcry on the pervasiveness of violent crime and access to guns. Governor Mandel sought to limit who could legally carry firearms in public to a very select few classes of people. He also demanded that "stop-and-frisk" be put into Maryland law, so police officers could be less restrained in their approach to enforcing the newly enacted gun laws. The demand for more police action was so great, that the Washington Post was flippant about the potential harms to other liberties and even towards the prospect that Black citizens could have the laws disproportionately enforced against them:

What Governor Mandel proposes to do is really minimal. He wants to enable officers of the law to protect themselves against breakers of the law—usually called criminals—by letting the former frisk the latter, briefly and politely, on the basis of a "reasonable suspicion" that a concealed lethal weapon may be found. The legislation would also make it unlawful for anyone to carry a handgun concealed or unconcealed, on the streets or in a car. Unfortunately, it would not affect the sale and possession of pistols kept in homes for junior to show off to his baby sister or to settle family altercations.

Understandably, civil libertarians have had misgivings about the proposed law. Authorizing the police to stop and frisk a person on mere suspicion entails a serious risk that the police will behave arbitrarily or capriciously. And this applies with particular force, of course to black citizens who are so often the special target of police harassment. One must respect their anxiety. But the remedy lies, we think, in maintaining a vigilantly watchful eye on police behavior rather than in denying the police a power they genuinely need for their own safety as well as for the public safety.

- Frisking for Firearms. (1972, January 20). *The Washington Post*, p. A18.

Years later in 1988, the General Assembly again found itself facing calls to do more about crime and guns – in ignorance of the laws of the 1972 session and broad powers granted to law enforcement. The pariah identified by lawmakers and members of the media this time was the availability of inexpensive pistols described as "Saturday Night Specials." That invented term for

these guns is from a less than glamorous origin (see B. Bruce-Briggs, “The Great American Gun War”, 45 *Pub. Interest* 37, 50 (1976) <https://bit.ly/3J99dQI>), but supporters of these sorts of bans gleefully champion their work to ban the distribution of them. While there have always been calls to outright ban the possession of handguns and these cheap pistols were an easy target for the legislature, *even they* decided not to affect current possession of these guns, but to create the Handgun Roster Board to ferret out which guns were “safe” enough for the public to purchase. That Board still exists today and pistols not on the Roster cannot be legally sold or transferred within the State – including homemade handguns.

The parallels between the push to do something about the cheap pistols mentioned before and “ghost guns” are virtually the same. Both have been decried as the tools of criminals, that there are no legitimate uses for them, and that they are items that usurp the authority of regulatory schemes and police powers. “Specials” as too affordable and “ghost guns” for being too easily obtained. Just as with both, Maryland’s laws do not extend beyond its borders. Roughly half of the guns used in crimes in Maryland originate elsewhere and get here often through illegal trafficking. See *Illegal out-of-state gun trafficking is fueling Baltimore's homicide epidemic.* (2020, November 19) *Baltimore Magazine.* <https://bit.ly/3ovHeTf>. Kits for Polymer80 and other 80% receivers are likewise easily purchased in neighboring states. The Biden administration’s proposed ATF rule that’s slated to become effective in June 2022 will certainly be met with legal challenges by companies within the firearms industry and like so many other federal rules as of late, be enjoined from enforcement by a federal district court in a jurisdiction with more Republican-appointed judges and tied up – all the while kits are still being sold in neighboring states and elsewhere. If the War on Drugs has taught us anything, it’s that underground markets will still make these items available and indeed, outlaws will still get their guns. The likely retort is that a legislature should

still “do something” or that “perfection should not be the enemy of the good,” but this is in ignorance to Maryland’s status quo of being as tough on guns as red states are on drugs or social issues. This is not working to make Marylanders any safer. The General Assembly would subsequently pass more gun control laws in the ’90s, early 2000s, the Firearm Safety Act of 2013, 2018 with the introduction of Extreme Risk Protection Orders and banishment of “Rapid Fire Trigger Activators,” and in 2021 with the ban on the private transfers of long guns. Violent crime has ebbed and flowed in this time and homicide rates locally have been on the rise despite more and more criminalization and burdens placed upon lawful gun ownership.

Most of the “ghost guns” used as the impetus for this legislation and predecessors from other years are handguns. In *District of Columbia v. Heller*, 554 U.S., 570 (2008), the Court held that D.C.’s prohibition on the ownership of handguns violated the 2nd Amendment, that citizens have an individual right to firearms ownership separate from service in a militia, and that self-defense is core to the 2nd Amendment. Justice Scalia also wrote in the majority opinion that handguns are the “quintessential self-defense weapon.” This bill bans possession of any homemade handguns without regard to whether owners rely upon them for personal defense. While some are happy to mention from *Heller*’s majority opinion that ‘no right is unlimited,’ there is a caveat; “but the enshrinement of constitutional rights necessarily takes certain policy choices off the table. These include the absolute prohibition of handguns held and used for self-defense in the home.” The prohibition caused by these bills could very well be among the policies alluded to by the Court.

Not only does SB387 require that completed unserialized firearms be discarded, but it would also be necessary to discard 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 numerous websites. As chronicled in *I Got a Monster: The Rise and Fall of America's Most Corrupt Police Squad* by Baynard Woods and Brandon Soderberg, Baltimore's Gun Trace Task Force (GTTF) planted firearms and even BB guns on supposed suspects under false pretenses to initiate arrests or justify violence against those in communities already reeling from decades of police misconduct. In the time preceding the GTTF's unraveling, they were *praised* for getting "illegal" guns off the street despite the crimes they were committing to do so. It should not be unimaginable that officers acting in bad faith could do something similar with "ghost guns" or parts for them. Police units in other major cities that focus on 'getting guns off the street' have likewise been scrutinized for their aggressive and constitutionally questionable tactics. There have been calls to disband the District of Columbia's Metropolitan Police Department's Gun Recovery Unit (see Soderberg, B., et al., *'Let Me See That Waistband'*. The Appeal. (April 14, 2021) <https://theappeal.org/dc-gru/>) and New York City disbanded its plainclothes "anti-crime" units over concerns that they were doing far more harm to the public trust and safety than good. See Watkins, A. *N.Y.P.D. disbands plainclothes units involved in many shootings*. The New York Times. (2020, June 15) <https://nyti.ms/3GSmyey>. SB387 and any similar laws that attack the mere possession of items like this only provide more avenues ripe for exploitation by similarly bad actors.

There also exists vagueness problems with precisely what items are being banned.

The proposed § 5-701 provides:

(H) "UNFINISHED FRAME OR RECEIVER" MEANS A FORGED, CAST, PRINTED, EXTRUDED, OR MACHINED BODY OR SIMILAR ARTICLE THAT:

(1) HAS REACHED A STAGE IN MANUFACTURE WHERE IT MAY READILY BE COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM; OR

(2) IS MARKETED OR SOLD TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED.

Not all firearms or firearms kits are created equal. Sig Sauer makes two of the most popular handguns on the civilian market; the P320 series and P365 series of pistols. These guns have a receiver that is nearly entirely internal. Unlike a Glock or Polymer80 handgun where the grip *is* the receiver of the handgun, the P320 and P365 have a removable internal component (the “Fire Control Unit” or FCU) that the ATF considers to be the actual “firearm” and is the serialized part.



*The FCU of a Sig Sauer P320 Handgun.
This is the “receiver” for this handgun. <https://www.sigsauger.com/p320-fire-control-unit.html>*

The FCU fits into what Sig calls a “grip module,” which is the grip for the gun. This grip **is not** the actual frame, or “firearm” of these guns, but rather literally just a grip and has no serial number on itself, but rather a cutout so the serial number on the internal receiver part can peek through. To anyone who doesn’t know the specifics of these guns, they’d identify the grip as the receiver, but it is not. That’s dangerous, as these guns have been sold in Maryland for years now and the grips by themselves strongly resemble the frames this bill is purported to prohibit. Police officers

and prosecutors are not necessarily firearms experts, nor are judges and jurors. Three years imprisonment hinges on whether all parties involved can identify these parts correctly.



The ATF considers the white part as a firearm and the brown as not. Maryland law, a prosecutor, police officer, or juror could conclude they both are.

There are other problems with SB387. In the proposed § 5-702 (1)(i), any firearms made **before** 1968 are exempted from the ban imposed on unserialized guns, 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 bill's language does not reflect that the GCA was signed on October 22nd and did not become effective until **December 16th, 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 an unserialized gun made in April of 1967 and one made in November 1968. All the worse considering failure to know doesn't spare one from criminal prosecution.

I understand the desire to make Maryland a safer place for residents – I want that too – and that legislators have a duty to represent their constituents’ best interests. However, this legislation does not contribute in the slightest to public safety. The vast majority of Marylanders and indeed Maryland gun owners are well-meaning and harmless to others, yet this bill threatens them with the potential for violence by the various law enforcement agencies this State just last year spent great attention to reforming because of the numerous ways they have abused their powers and skirted accountability. Individuals determined to harm others will still find the means to do so unabated while honest and innocent people only face more burdensome and confusing laws that do little more other than to threaten and punish them. Prosecutors and police do not have a lack of laws at their disposal to target those bringing harm against others in our communities with illegally possessed or carried guns (see Md. Public Safety Art., § 5-101(g), § 5-133(b), and § 5-205(b), also Md. Criminal Law § 4-203 just to name a few). This is not a plea to just “enforce the laws we already have,” but to reflect on what actual good may come from such a pro-carceral approach. The legislature is indeed working to invest in communities and even alternatives to relying solely on criminal law enforcement to mitigate and intervene in disputes. I encourage it to continue those approaches and not yield to the desires by some of just throwing more muscle at communities already weary of the effects of over-policing.

The City of Philadelphia recently conducted a year-and-a-half-long study on why it suffers from so much gun violence and what approaches could be taken to lessen it. Like the City of Baltimore (with its Mayor, Police Commissioner, and numerous state lawmakers using the City’s crime woes as justification for the ban on “ghost guns”), police in Philadelphia have noted an uptick in seizures of privately made firearms. However, the report *doesn’t* recommend outlawing the guns

or making stiffer penalties for those with them merely because they are unserialized. It states on page 170:

“A common argument made to support arrests for gun possession is to get guns off the street. Unfortunately, there are so many guns legally bought and sold in this country—in addition to guns that are purchased illegally or “ghost guns” which are bought in pieces and assembled—that several thousand gun possession arrests per year hardly impacts the volume of available guns (see Appendix 7: DAO 16).” - 100 Shooting Review Committee Report, (2022 January 25) pp. 170-179, <https://bit.ly/3utv0ya>.

The report is fully aware of the trouble of trying bans like this in a country where there exist enough millions of guns to arm every adult resident at least twice. See NSSF Releases Firearms Production Figures. (2019, December 4) NSSF. <https://bit.ly/331muey>. There aren't enough police nor enough prison cells to lock up every possessor of illegal guns, whether they be “ghost guns” or not. The emphasis, as the report suggests, should be to focus on holding those committing violence accountable and not merely going after illegal possessors. Like the previously mentioned concerns of police units in D.C. and New York City, Philadelphia District Attorney Larry Krasner writes in the 100 Shooting Review Committee Report on page 43:

“Focusing so many resources on removing guns from the street while a constant supply of new guns is available is unlikely to stop gun violence, but it does erode trust and the perceived legitimacy of the system. This in turn decreases the likelihood that people will cooperate and participate in the criminal legal system and associated processes, reducing clearance, conviction, and witness appearance rates.”

John Pfaff of Slate recently provided coverage on the report, noting the differences in approaches offered by Krasner in contrast with New York City Mayor Eric Adams, who has not been shy about taking an aggressive approach to targeting illegal gun possession. See Pfaff, J. *What an analysis of 2,000 shootings tells us about how to end gun violence*. Slate Magazine. (2022, February 14). <https://bit.ly/3v1nTx8>.

Furthermore, it is worth reading the amicus brief submitted by the Black Attorneys for Legal Aid and The Bronx Defenders in support of the plaintiffs in *New York State Rifle & Pistol Association Inc. v. Bruen*, 20-843 for a host of examples of what the enforcement of gun control laws really looks like. <https://bit.ly/3LdnJZn>. From their summary:

“The consequences for our clients are brutal. New York police have stopped, questioned, and frisked our clients on the streets. They have invaded our clients’ homes with guns drawn, terrifying them, their families, and their children. They have forcibly removed our clients from their homes and communities and abandoned them in dirty and violent jails and prisons for days, weeks, months, and years. They have deprived our clients of their jobs, children, livelihoods, and ability to live in this country. And they have branded our clients as “criminals” and “violent felons” for life. They have done all of this only because our clients exercised a constitutional right.”

Maryland has followed a similar path for decades and is continuing to effectively eliminate the 2nd Amendment for whole classes of people who deserve to be able to exercise it like anyone else.

I have testified before the General Assembly that I probably have the means to comply if a serialization requirement were made, but I do not represent the mean for gun owners or not even necessarily others who’ve made their own guns. I’ve been an instructor, advocate, and monitor of gun-related legislation and lawsuits for several years and have done a lot of networking in the industry. I think by now I can say I’m at least somewhat of an expert on Maryland’s firearms laws, spending an unhealthy amount of time navigating their numerous pitfalls for both my safety and that of my students. I have a privileged background in this regard with access to as many resources as I do. SB387 is egregious, but it likely will not be people like myself who bear the brunt of its enforcement. It will be enforced arbitrarily and capriciously against those who don’t know how to

handle police encounters and unwittingly talk themselves into trouble; against those walking home in a rough neighborhood and who have a gun for their protection; against those who were merely curious in the novelty of making their own gun and who talked about it too much on social media; against those are utterly unaware of what this legislative body does; against your very own constituents.

The irony cannot be lost that after a legislative session that focused on badly needed reforms for law enforcement agencies within the State that this body deems these problematic agencies just fine to sic on more Marylanders. The bill's enactment *might* be used against some people committing violence in our communities, but it is regular, ordinary citizens who are in the middle of a political game between the General Assembly's approach to crime prevention and the Governor's. It is also an election year and lawmakers are vying for the endorsements of various special interest groups, so the prudence that may normally exist in a year when considering which type of Marylander to jail seems to be lost in this session. Maryland already has a litany of laws that criminalize various levels of conduct with and around firearms and this desire to lock up more Marylanders is horribly and sadly misplaced. Maryland citizens cannot be made pawns in political games and especially not when it comes to their potential interaction with the criminal justice system for the exercise of constitutionally protected rights.

I strongly urge an unfavorable report.

A handwritten signature in blue ink, appearing to read 'DCW', is centered on a light gray rectangular background.

Daniel J. Carlin-Weber
225 N Calvert St., 819
Baltimore, MD 21202
dcw@cwdef.com

Mandel seeks tighter gun law

By BARRY C. RASCOVAR
Annapolis Bureau of The Sun

Annapolis—Citing the recent outbreak of shooting incidents in Baltimore schools, Governor Mandel has summoned top law enforcement and criminal justice officials to a meeting today to discuss ways of stemming the free flow of hand guns in Maryland.

The present situation, Mr. Mandel said yesterday "cannot be tolerated, particularly in the Baltimore city schools." There have been four shooting incidents—one of them fatal—near city schools in recent weeks, and

city police have confiscated more than 125 handguns from school students during the same period.

The purpose of today's meeting, which will take place in the State Office Building in Baltimore, will be to discuss what type of legislation should be drafted to curb the flow of guns into the hands of criminals and students.

Those attending

Scheduled to attend the meeting with the Governor are Donald D. Pomereau, the city police commissioner; Robert J. Lally, the state's Public Safety chief; Thomas H. Smith, State Police superintendent; Robert W. Sweeney, chief judge of the state's District Courts; Dulaney Foster, chief judge of the city Supreme Bench; Francis B. Burch, the state attorney general; Arthur B. Marshall, Prince Georges county state's attorney and chairman of the Maryland State's Attorneys' Association; and Milton B. Allen, the city's state's attorney.

Mr. Mandel has in recent

weeks reversed his stand on the need for stronger state laws regulating the ownership of handguns. He has indicated that he now favors new legislation that would place greater restrictions on the sale of handguns than is now on the books.

Existing law restricts the sale of handguns by dealers. It does not, however, affect the sale of handguns by private individuals.

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The Washington Post

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NEWSPAPER

THURSDAY, JANUARY 20, 1972

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Frisking for Firearms

Although he is a latecomer to the fold, Governor Marvin Mandel deserves commendation for his gun-control bill. He is entitled to a special round of applause for making it "emergency legislation." This requires that it must win approval by three-fifths of each house of the General Assembly instead of the usual simple majority. But it also means that, if it does so, it will take effect as soon as it is passed. What's the governor's hurry? The answer to that purely rhetorical question is writ large as death in the pages of the daily newspapers where armed robberies, holdups, shootings are the standard stuff of headlines. "We have to do something and do it fast," the governor said the other day. Would that it had been done long since.

What Governor Mandel proposes to do is really minimal. He wants to enable officers of the law to protect themselves against breakers of the law—usually called criminals—by letting the former frisk the latter, briefly and politely, on the basis of a "reasonable suspicion" that a concealed lethal weapon may be found. The legislation would also make it unlawful for anyone to carry a handgun, concealed or unconcealed, on the streets or in a car. Unfortunately, it would not affect the sale and possession of pistols kept in homes for junior to show off to his baby sister or to settle family altercations.

Understandably, civil libertarians have had misgivings about the proposed law. Authorizing the police to stop and frisk a person on mere suspicion entails a serious risk that the police will behave arbitrarily or capriciously. And this applies with particular force, of course to black citizens who are so often the special target of police harassment. One must respect their anxiety. But the remedy lies, we think, in maintaining a vigilantly watchful eye on police behavior rather than in denying the police a power they genuinely need for their own safety as well as for the public safety.

The General Assembly could usefully add some

safeguards to the bill. It would be wise, we think, to require police officers to file a written report on every frisk they make, whether or not it produces a forbidden weapon. The report should embody a simple statement of the officer's "reason" for suspecting that the frisked person was armed. This should operate to curtail routine or random frisking on the basis of mere generalized suspicion. It will also afford a basis for reviewing the impact of the law.

The dangers to the community arising out of the current widespread possession of pistols makes it seem reasonable to allow limited arrests and limited searches for these particular weapons on a basis less than probable cause. In an opinion by Mr. Chief Justice Warren in 1968, the Supreme Court said: "We cannot blind ourselves to the need for law enforcement officers to protect themselves and other prospective victims of violence in situations where they may lack probable cause for an arrest. When an officer is justified in believing that the individual whose suspicious behavior he is investigating at close range is armed and presently dangerous to the officer or to others, it would appear to be clearly unreasonable to deny the officer the power to take necessary measures to determine whether the person is in fact carrying a weapon and to neutralize the threat of physical harm."

In a footnote, the chief justice noted that fifty-seven law-enforcement officers were killed in the line of duty in this country in 1966 and that 55 of the 57 died from gunshot wounds, 41 of them inflicted by handguns. Had he been able to foresee the future, he might have added that the number of policemen killed came to 110 in the fiscal year ending June 30, 1971, 101 of whom were shot, 72 by handguns. The rule laid down by the court seems to us to comport with the Fourth Amendment—and with the dictates of common sense.

Governor submits gun-control bill to Legislature with slight changes

By GILBERT A. LEWTHWAITE
Annapolis Bureau of The Sun

Annapolis—Governor Mandel yesterday submitted his gun-control bill—changed in detail, but not substance—to the General Assembly as emergency legislation.

The bill contains the controversial stop-and-frisk clause, and puts added emphasis on mandatory jail sentences for criminal use of handguns.

It also seeks to set up a three-man review board, appointed by the Governor, to hear appeals by people refused police permits to carry handguns.

Permits, valid for two years, will cost up to \$25. The money will go toward the estimated \$300,000 operating budget of a special gun-permit department to be set up by the State Police.

Other changes have been made in the wording of various sections to clarify their meanings or to make them common sense.

John C. Eldridge, the Governor's chief legislative aide, who drew up the bill, said the alterations were made after study of more than 400 letters from legislators, lawyers and gun lobbyists who had been sent a draft outline of the bill.

"We got several hundred letters with suggestions... we took every one up with the Governor, and the ones he decided to adopt were the ones that he thought would make the bill more workable," Mr. Eldridge said.

The bill, submitted to both the Senate and the House of Delegates, will take effect immediately as emergency legislation if it gets the necessary three-fifths majorities in both houses.

The bill basically would limit the carrying of handguns to persons with permits, and would authorize the police to stop and pat down anyone an officer has "reasonable belief" might be illegally carrying a handgun.

Col. Thomas S. Smith, the superintendent of State Police, would be given power under the bill to issue gun-carrying permits to anyone with "good and substantial reason to wear, carry, or transport a handgun."

The superintendent's request for clearer guidelines on those eligible for permits was rejected by the Governor on the grounds that it would be impossible to draw up a list to cover all circumstances.

But the bill would outlaw the issuance of permits to anyone who is under 21, who has served a year in prison without being pardoned, who has been free from a term in a juvenile institution for less than 10 years, who has been convicted of narcotics possession or is an alcoholic.

Establishment of a handgun-permit review board, an innovation in the final draft of the bill, was suggested by both the gun lobbyists and Colonel Smith, according to Mr. Eldridge.

It would operate as a separate agency within the Department of Public Safety and Correctional Services. Its three members—"appointed from the general public by the governor

and serving at the pleasure of the governor"—would be able to "either sustain, reverse or modify the decisions of the superintendent."

The only permanent exceptions from the permit process would be full-time policemen. The qualification "full-time" was added to the final draft deliberately to exclude part-time "law officers" such as politically appointed deputy sheriffs.

The exception also would apply to servicemen, prison guards and wardens while they were either on duty or traveling to or from duty.

The only times members of the general public could carry guns without permits would be from a "place of legal purchase" or on the way to or from a "target shoot, target practice, sport shooting event, hunt, or any organized civic or military activity."

The original draft contained provisions also for "skeet and trap" meetings also, but members of gun clubs pointed out that handguns were not normally used in these two sports.

Whenever a handgun is carried, it would have to be in a closed case or holster and unloaded. The original draft said the case should be marked as a "gun case." This was dropped because it was thought likely to be an invitation to the theft of small arms left in cars or carried.

Under the bill submitted yesterday, two exceptions were made to the otherwise mandatory forfeiture of seized weapons and vehicles in which they were carried. The exceptions cover stolen cars and "common carriers," such as taxis or buses whose owners are unaware that their passenger is illegally armed.

The bill has a special provision to cover the delay between its enactment and the issuance of permits to those in regular need of handguns such as licensed private policemen, bank guards, armored-car escorts, and private detectives.

These private policemen would be permitted to continue carrying their guns on duty for a year, pending the approval of their applications for permits.

Colonel Smith has estimated that between 10,000 and 11,000 permits will be issued in the private security field, making up the bulk of the \$300,000 annual operating budget.

Mr. Eldridge said of the amendments: "There is no general purpose on toughening or lessening the bill or trying to appeal to anyone or anything like that. They are just specific suggestions in the way the bill was worded which were felt would improve its workability."

Shortly before the Governor submitted his bill, he met with a group of black ministers and two black legislators who support the bill. Governor Mandel again promised to keep his door open for any complaints about police harassment—a major objection to the stop-and-frisk clause.

The ministers represented Baptist and Methodist parishes in Baltimore city and Baltimore county. They were accompanied

by delegates Frank M. Conaway (D., 4th Baltimore) and Joseph Chester (D., 2nd Baltimore).

Officers who conduct on-the-spot searches which are fruitless would be protected from being sued for damages unless it could be proved that they had acted without "reasonable grounds for suspicion and with malice."

The proof would have to be "by a fair preponderance of the evidence"—the normal civil suit requirement.

This phrase was inserted in the final draft at the request of a legislator, who apparently felt the definition should be spelled out, since such a civil suit could possibly arise out of criminal proceedings, where normal proof has to be "beyond a reasonable doubt."

The Washington Post

AN INDEPENDENT NEWSPAPER

WEDNESDAY, FEBRUARY 2, 1972 PAGE A14

The Pistol Packers

Governor Marvin Mandel's modest proposal to spare the lives of a few policemen by cracking down on gun-toters in public places has run into a withering crossfire, as he no doubt anticipated, from "sportsmen" on one side and from libertarians on the other. It may be that both of them somewhat misapprehend the purpose of the stop and frisk authorization the governor has proposed. The "sportsmen" see it as a form of gun control—which it certainly is not. And the libertarians see it as a license for unlimited harassment of black citizens—which the governor certainly does not intend it to be.

The Mandel proposal would fix stiff penalties for carrying a handgun on one's person or in an automobile without a permit. An exception is made for sportsmen engaged in an authorized sporting enterprise. And the bill would authorize policemen to stop persons and pat them down briefly and superficially on the basis of a "reasonable belief" that those persons are illegally carrying a concealed pistol. Prohibitions on packing concealed pistols are hardly novel and hardly a threat to bona fide sportsmen. For what sport would a "sportsman" want to carry a handgun around with him on the streets of a city? The purpose of this legislation is to enable policemen to protect themselves from thugs who last year used handguns to kill 72 officers engaged in the performance of their duty.

Anyone who wants to know what a real gun control bill is like need only look at the provisions of a measure introduced in the Maryland Assembly last week by Del. Woodrow M. Allen. It would flatly ban private ownership of pistols; anyone wishing to use a pistol for target shooting or other forms of "sport" would have to join a licensed gun club where it would be kept under prescribed conditions and fired only under careful supervision; persons owning handguns would be required

to turn them in to state or local police by next January 1 for fair compensation.

Now, that is what we call a gun control bill. It would save the lives not only of policemen but also of daughters coming home from late dates and being mistaken for intruders, of wives and husbands displeased with one another with a firearm lying handy in a bedside drawer, of neighbors eager to settle political differences of the sort that arise now and then over a glass or two of some distillate. In fact, it is so sensible, practical and realistic that it has no possibility of passage by the assembly at the present time. Several thousand more Marylanders will have to lose their lives by pistol bullets before the insensate opposition of the gun lobbyists can be overcome.

The small first step toward sanity proposed by Governor Mandel appears to have had its chances of enactment improved by a prudent concession which has won it the endorsement of State Senator Clarenc M. Mitchell III. It is wise and right, we think, that the basis for frisking a suspected gun toter should be sharpened so as to prevent arbitrary police action. The U.S. Supreme Court has said that the Fourth Amendment will not be violated if police officers search suspects for lethal weapons in situations where they may lack probable cause for an arrest. But of course this cannot be taken to mean that the police may search on mere unsubstantiated suspicion. Civil libertarians have been wholly justified in insisting that the police have real grounds for frisking; and we believe this insistence can be effectively fortified by requiring the police to report every stop and frisk incident so that the record will show just how frequently their action has been warranted.

Such sharpening of the legislation will, we hope, diminish the fears of the libertarians. The fantasies of the "sportsmen" may be dispelled by speeding up the system for issuing permits and by assuring them that they can carry their handguns to and from lawful sporting enterprises.

RE_ HB425_ SB387 (4).pdf

Uploaded by: Daniel Menendez

Position: UNF

Daniel Menendez
11719 Galt Avenue
Silver Spring, MD 20902

February 2, 2022

RE: HB425/SB387

To Whom it may concern,

As a law abiding firearms owner, It is my testimony that HB425/SB387 titled "Public Safety - Untraceable Firearms" is reactionary legislation that will overreach, impacting citizens who hold no intent to break law more than their target demographic of high school age persons and I oppose it wholeheartedly. It simply hopes to scare potential murders from building their own weapons, while providing no legislation that actually stops individuals from building said firearm.

Allow me to start by stating that the bill does not narrowly target that which it wishes to restrict. The honorable attorney general Brian Frosh has stated on camera that this legislation would narrowly target 80% lower kits (kits whose receiver portion must be completed before assembling the rest of the weapon). However, upon inspection of the actual bill, the verbage targets all unserialized receivers, thereby affecting unsuspecting individuals who have either built their own firearm from scratch or have 3D printed their own firearm. Regardless of what anyone thinks of an individual who prints or forges their own weapon, this bill targets them as well, which was not the intent of the bill and should be at least amended or the bill scrapped.

Furthermore, The bill in question criminalizes the possession of all unserialized lowers and sets forward impossible standards within the realm of enthusiasts who print their own firearms for recreational and educational means. There are provisions for serialization, but a 3D printed centerfire handgun or firearm will be made entirely of polymer and therefore cannot be serialized according to the requirements the ATF has for centerfire firearms. The ATF requires that centerfire firearms be serialized on a section of metal, of which an entirely polymer 3D printer receiver has none. Furthermore only certain federally licensed firearms dealers can serialize firearms, particularly those with a type 07 license. Of the 722 active FFL addresses in Maryland as of this writing , only 163 have a type 07 license and are therefore capable of serializing firearms. Even if they are capable, most of these type 07 FFLs do not offer serializing as a service. As such It poses an unfair penalty on citizens who had no mind towards hurting their fellow human beings and should either not require the serialization of home built weapons, or be scrapped entirely.

Not wanting to simply state my stance without giving a possible solution, I instead propose the following ideas as legislation to replace this bill to prevent future shootings regarding unserialized weapons without penalizing those law abiding individuals who privately manufacture their own firearms:

- Require packages including components **critical to the function of a firearm** to be shipped to a federally licensed dealer, as opposed to being directly shipped to the purchasing individual.
 - Components **critical to the function of a firearm** are defined as: components which are constructed specifically for the purpose of being used in the construction of a firearm.
- Require that the purchaser provide identification linking themselves to their package, and require that the federally licensed dealer verify the purchaser's identification in any way the dealer desires
- If the dealer is able to verify identity and the purchaser is above 18 years of age, the dealer may release the item to the purchaser
- If the dealer is unable to verify identity or the purchaser is under 18 years of age, the dealer may not release the item to the purchaser
 - In this case, it is the purchaser's responsibility to either:
 - Provide their dealer with a return label for their order within 90 days of failing their first background check

OR

- Pass any subsequent background check within 90 days of failing their first background check, with a limit of 2 attempted background checks a day
- After 90 days of holding the purchaser's Item, the federally licensed dealer may do as they please with the purchaser's item if the purchaser has not yet recovered their item

Note that there is no penalty for failing the background check, nor a penalty for providing false identification, that was on purpose, as my intent is to discourage an individual from building a firearm without first engaging with their local FFL or an individual of 18 years or older, not add to our ridiculous prison population.

Sincerely,

Daniel E Menendez

menendez.daniel2@gmail.com

(240) 676 - 7162

Ghost Gun Testimony.pdf

Uploaded by: Daryl Hodge

Position: UNF

SB 387 – HB 425 – OPPOSE

Daryl J. Hodge

975 Placid Court

Arnold, MD 21012

Ph: 443-889-4497

SB 387 – HB 425 OPPOSE

Public Safety - Untraceable Firearms

I write to oppose SB 387 – HB 425, which seeks to criminalize currently allowed conduct without any benefit, and which unnecessarily burdens law-abiding firearms owners and hobbyists within Maryland. Additionally, this bill is unenforceable.

First, the bill errs in its definition and characterization of “ghost guns”. The sponsors have cited an increasing number of “ghost guns” but they have conflated several different types of unregistered firearms. Possession of a commercially-produced firearm with the serial number removed is the first type. Removing the serial number or possessing such a gun is already illegal, if rarely prosecuted. The second contains parts which may be produced by a 3-D printer. Such guns are in limited production and are of very limited capability. The third type of “ghost gun” is produced from a partially finished frame. This is the “80% frame”, which is not considered a firearm by the BATFE.

When statistics are cited, there is no differentiation among the types of “ghost guns”. I believe this is intentional, designed to inflate the numbers for dramatic purposes.

Second, this bill will have no impact on the use of “ghost guns” in crimes. Criminals are obtaining the vast majority of their guns via theft and black-market sales. They are already ignoring existing laws and will have no hesitation in breaking one more.

It’s currently illegal for a prohibited person to make a firearm for personal use, or for an unlicensed gunmaker to “engage in the business” of selling their guns to others.

Third, I am a Federal Firearm Licensee. I possess a Class 3 license. I cannot comply with this law without violating current federal law concerning the manufacture of a gun for personal use. I cannot add a serial number to an existing gun.

Under federal law, to add a serial number is part of manufacturing a gun. This is not allowed for collectors like myself with my Class 3 license. Nor is it permitted for the average gun store or gunsmith with their Class 1 licenses. It is restricted to the very few Class 7 licensees. There is nothing in the bill to encourage their participation.

None of the 163 Class 7 licensees, firearms manufacturers, have indicated their willingness to participate in this serialization scheme. Therefore, the proposed law instantly criminalizes gun hobbyists. There is no disincentive for those prone to other criminal activity.

And while the Attorney General and the bill's sponsors make many assumptions about the manufacture of a firearm from a partially finished receiver, please see one Santa Rosa, CA reporter's experience at: <https://www.pressdemocrat.com/article/news/how-easy-is-it-to-build-a-ghost-gun-we-asked-our-reporter-to-find-out/>

After hours on his own, with videos, he sought the help of a gun-owning friend with better tools. He ended up with a non-functional gun. No criminal is taking this approach of theft or an illegal sale.

Finally, the bill is unenforceable. It is impossible to comply with the proposed statute and still follow applicable federal law. It will have a chilling effect on hobbyist activity with no effect on crime.

I commend to you the excellent testimony provided by Maryland Shali Issue, found at: <https://www.marylandshallissue.org/jmain/legislation-tracker/279-mdga22-testimony-in-opposition-to-hb425-and-sb387-public-safety-untraceable-firearms>

Letter written in Opposition to Senate Bill 387.pdf

Uploaded by: David Harman

Position: UNF

From:
David Harman
8261 Londonderry Ct
Laurel, MD 20707

Letter written in **Opposition to Senate Bill 387**

I would like to express my opposition to Senate Bill 387 and provide reasoning for said opposition.

- If passed this bill will burden your law abiding constituents with making a choice to hand over legally purchased property or spend time and money seeking out an FFL willing and able to add a serial number to a previously legal firearm.
- Passing this legislation will potentially conflict with ATF proposed rules and clog the courts with cases without legal precedents.
- 80% has long been held by the ATF as the threshold for what's considered a manufactured firearm.
- An 80% frame requires tools, time, and expertise to build a firearm. It is not a simple matter of buying some parts, putting them together like legos and producing a firearm.
- Criminals are more likely to steal a firearm for use in a crime, than build one. And even if they were inclined to build a "ghost gun", they can simply go out of state to buy the parts, because they don't follow the law.
- Start enforcing the laws already on the books regarding use of firearms by felons. How many criminal news stories mentioned the perpetrator of a new crime was released without charges on illegal possession of a firearm weeks or months earlier.
- The statistics don't show an increase in crime due to "ghost guns". This is at best a feel good measure by those seeking the perception of addressing violent crime, while making no discernable impact. In fact, it will simply create more criminals out of previously law abiding citizens who didn't know about new legislation.
- Purchase of 80% frames and parts kits are not cheap. In fact, it's more cost effective to simply purchase a new firearm through a firearms shop. (Legally, not a strawman purchase)
- Disarming law abiding citizens emboldens criminals and increases the likelihood of an increase in crime. This is proven by FBI statistics that reflect much greater rates of violent crime in areas with the most stringent gun laws.
- If a gun of any sort is stolen and used in the commission of a crime, the criminal using the stolen gun should be held accountable, and not the victim of a theft. If someone steals your automobile and runs over someone, do you expect to be charged as a criminal, as the owner of the stolen vehicle?

Respectfully,

David Harman

SB387_HB425 DH Testimony.pdf

Uploaded by: Dillon Hall

Position: UNF

SB 387 - HB 425 - Oppose

Dillon Hall

I am a citizen of the Eastern Shore of Maryland. Today I am writing to **OPPOSE** SB 387 - HB 425, which seeks to criminalize me for producing legal, safe, firearms in my own home as an enjoyable past-time because of an improperly policed criminal element in Baltimore City, Prince George, and Montgomery County. The state of Maryland is more than the 3 aforementioned areas, and the proposed legislation seeks to punish those of us that have no say or input in these locales.

This bill before the committee seeks to attack and criminalize Marylanders that have no affiliation with the crimes in Baltimore city, and the actions of criminals there. There is no tangible benefit to public safety, and as written is unenforceable and on many levels, frankly, not within the scope of compliance. I will address these issues as follows.

1. Untraceable Firearms are not an ever present pressing public safety concern.

The proposed law seeks to regulate [And criminalize those with] privately made firearms. The basis for the desire to regulate them is entirely flawed as it fabricates a reality surrounding an already stark criminal element for an easy scapegoat. What the committee should be asking themselves in this respect is how many of the individuals that have had these firearms recovered from them are already prohibited persons - which is a felony charge. No different from them possessing a commercially manufactured firearm with an obliterated serial number - which is it's own felony, on top of possession by a prohibited person. The supporters of this proposed legislation rely on an assumption that the numbers recovered from criminal elements somehow indicate the existence of a problem surrounding privately manufactured firearms. The supporters of this bill will also entirely fail to explain how this bill will lessen firearms crime or violence in Maryland. They don't even allege that the postulated 'increase' in personally made firearms recovered at crime scenes have even caused an INCREASE in violent crime - only that they are present. The fact is that criminals do not care, they violate the law. They do not obtain guns legally, they do not possess guns legally, and they use said illegal firearms to commit federal felonies. Injuring someone with a firearm is a minimum felony first degree assault, and likely attempted homicide. Killing someone with a firearm results in the potential worst punishment the state can levy being life in prison. Why would a criminal willing to risk life in prison care even the slightest about the proposed misdemeanor? They wouldn't. Instead the only population in the state that this would impact are law-abiding gun owners. The tax paying, rule following, mindful citizens of the state that may wake up on January 1st, 2023 as criminals without even the slightest realization the firearm they built for recreation may result in prison time and a complete loss of their second amendment rights for the rest of their lives.

2. The proposed marking requirements place an excessive burden on the owner and FFL's in the state of Maryland.

In a best case scenario the law abiding citizens of Maryland will not only be forced to pay an excessive amount *per firearm* they will also have the burden of finding an FFL in Maryland with the capabilities and licensure to engrave the information this bill requires. The standard ATF marking procedure requires very specific engraving equipment and there is not an abundance of FFL's in possession of said equipment in this state. It's reasonably estimated that there exists tens of thousands personally made firearms that would fall under the purview of this bill in Maryland. Juxtapose this against the very likely reality that the sudden influx of firearms to FFL with gunsmiths capable of the marking requirements may result in a turnaround of *MONTHS* leaving many Marylanders with the choice of destroying their legally purchased, legally owned property, or surrendering it to the state, likely without compensation for the value of said item, or becoming criminals. To be clear this bill risks painting all privately made firearms in the state with broad strokes, making law-abiding citizens criminals. A grand majority of the firearms in question are built by hobbyists with special equipment for personal enjoyment and the development of skills. It should not be forgotten that the Second Amendment, as confirmed in *Heller*, provides an American with the fundamental right to keep and bear arms.

Given that this bill is discussing a fundamental right of the American public, the legal standard for review is strict scrutiny. For the reason set forth above regarding the statistically insignificant nature of the purported problem it is clear that the goal advanced by this bill cannot meet such a standard.

Furthermore, the required action for compliance for personally manufactured firearms - that they be serialized by an FFL - Is in many cases impossible to comply with beyond the few existing FFL's in Maryland being capable of such engraving. Many makers of these firearms engrave their OWN serial numbers at the time that the firearm was made, in accordance with relevant guidance from the BATFE. This means that these guns already HAVE a serial number recognized by federal law. Is the owner of such a firearm supposed to violate federal law and obliterate their legal serial number, irrespective if it is for the purpose of adding another. This means that the law-abiding Marylanders that took extra and voluntary steps to mark their personally made firearm in the hope it could be recovered if stolen would have no choice but to destroy or dispose of their property.

3. This bill cannot be enforced.

This bill is vague and broad sweeping, and for all practical purposes unenforceable. A 12 gauge shotgun can be manufactured out of two lengths of pipe, a threaded cap and a nail, referred to as a slam-fire shotgun, which actually saw use in the Philippines during world war 2 made by civilians to combat Japanese forces invading their homes. Would the supporters of this bill expect Lowes to serialize steel pipe and obtain an FFL? I would presume the answer is of course no. So I must return to the only real scenario plausible; the supporters of this bill wish to end the right of Marylanders to construct their own firearms. The destruction of this freedom provides no benefit to public safety, or society given the earnest lack of correlation to any uptick in crimes. The mere presence of these prescribed 'ghost guns' as they're commonly referred to aren't any factor. The criminal element accessing these firearms likely do not even know how to

produce these firearms. It stands to reason that they are simply acquiring them the same way they acquire other firearms. Stolen firearms from the trucks of cars, face to face exchanges of money for hot guns, dead drops where money is left and a firearm is exchanged and left in its place. And even aforementioned criminals are producing their own firearms, a prohibited person that builds their own firearm is knowingly committing a crime irrespective of any change in existing law or regulation. If these personally made firearms magically disappeared tomorrow the exceptionally rare criminal that might today obtain a firearm by illegally building their own will simply seek out an avenue mentioned above on the black market. But we aren't talking about the possibility of these self made firearms disappearing from the nation, only Maryland. And even if Maryland personally manufactured firearms were to disappear. Said prohibited individual is no more than an hour's drive away from another state to purchase the materials this bill seeks to ban, gladly ignoring this bill, should it become law.

To summarize, This bill currently under consideration will have zero positive impact on crime in Maryland. The only impact this bill will have is to harm law-abiding Marylanders by costing them money, the loss of property, or both. More troubling still - This bill will unnecessarily cause some formerly law-abiding citizens to become criminals when forced to choose between their formerly lawful property and a law they cannot comply with.

Submitted,
Dillon Hall, Concerned Citizen.
3076 Hoopers Island Road
Church Creek, MD 21622

SB0387_Earle Sugar_UNF.pdf

Uploaded by: Earle Sugar

Position: UNF

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

SB 387 Gene Kohler.pdf

Uploaded by: Gene Kohler

Position: UNF

Bill SB387
Gene Kohler
Unfavorable

16 Feb 2022

I oppose this bill for the following reasons:

1. This Bill will do nothing to increase public safety or decrease the growing violent crime rate in Maryland, Particularly in Baltimore which, we have to admit is the nexus of the problem.

a) Firearms tracing is seldom useful in solving the crime.

b) Most firearms USED in crime are never recovered. (per Baltimore Chief of police during testimony in 2013).

c) Banning a particular type or class of firearm has never been shown to increase public safety nor decrease violent crime. In 2013 multiple firearms were banned and measures to prevent illegal transfer of firearms (eg: straw purchases). Subsequently Maryland expanded the requirements for background checks in private transfers. YET ONCE FSA OF 2013 TOOK EFFECT AND AFTER DROPPING FOR A DECADE, THE RATE OF FIREARM RELATED VIOLENCE AND VIOLENCE IN GENERAL WITHIN A YEAR NOT ONLY DID NOT DROP BUT INCREASED TO RECORD NUMBERS AND RECORD RATES AND CONTINUE TO DO SO ANNUALLY. So not only have firearm restrictions not helped, arguably, they have exacerbated the problem. We usually look at homicides as the relevant statistic, but I would postulate that the only factor keeping Baltimore homicides from rising even more dramatically is the expertise of Shock Trauma in saving victims that would otherwise have become a homicide statistic- expertise obtained from experience in treating the exponentially number of violently injured patients.

d) there is no statistic that indicates that there is an issue with so called ghost guns. The reported increase in seizures if these firearms is still a minuscule percentage of seized guns..AND not all, maybe even most of seized firearms were not used in actual commission of a violent act, but were seized incident to some other occurrence, eg a traffic stop or a search concerning a different type of crime.

2. The only effect that this bill will do is to make hundreds of law abiding hobbyists criminals at the stroke of a pen.

3. There is no infrastructure in place to allow law abiding citizens to comply with this law. Too few FFL class 7 business to do the engraving even if they would agree to accept the liability and extra record keeping.

4. This bill has too many vague components, skirts federal law. It is a poorly written and poorly conceived bill that punishes law abiding citizens and will have no public safety benefit.

Dr. Gene Kohler
Capt, USN(ret)
Annapolis, MD

SB387_hm_unf.pdf

Uploaded by: Hunter McAdam

Position: UNF

SB 387

Hunter Tristan Mcadam

Unfavorable

2/16/2022

My name is Hunter Tristan McAdam, I am a current resident of Baltimore county, and I wish to state my strong opposition to senate bill 387 "Public Safety - Untraceable Firearms." As a long time Maryland resident and firearms enthusiast who has approximately 13 years of combined knowledge and experience with firearms and firearms community, I would like to call attention to some of the major issues with this bill. It has been legal to privately manufacture your own firearms for personal use since before the founding of the United States of America and it is a right that is affirmed today via the constitution (*Greenlee The American tradition of self-made arms* <https://doi.org/10.2139/ssrn.3960566>.) Any attempt to regulate firearms in a primordial state would be a clear violation of the "keep and bear arms" clause within the 2nd amendment. In Sec. 101 of the Gun Control Act: "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with the respect to the acquisition, possession, or use of firearms.." and "this title is not intended to discourage the private ownership or use of firearms by law-abiding citizens." In addition to being unconstitutional, this bill is unnecessary, unenforceable and violates historical precedent and natural rights.

As written SB 387 is extremely vague and non-specific in its definitions and uses a number of subjective qualifiers that allow for arbitrary and capricious enforcement. This bill defines an "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that (1) Has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm; or (2) Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted." A specific definition for frame or receiver that relies on concrete terms already exist under federal law 18 U.S.C. 921(a)(3), a firearm is defined as "(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm." Additionally Title 27, Code of Federal Regulations, section 478.11 defines a "firearm receiver" as, "[t]hat part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel." A firearm is in a tangible state of being or it isn't, regulating what could present more issues than it claims to solve. Using marketing terms such as "ghost gun" "80 Receiver" or "0%

receiver" are insufficient qualifiers as well as they too are subjective terms and require skill, discipline, tooling, and dedication to manufacture what could be considered a firearm receiver. This is by no means a straightforward process, and it is quite easy to make a mistake in the machining process and often cost more to make than buying a stripped lower from an FFL. Mistakes are common and aftermarket component incompatibility may cause the builder to spend more money than otherwise buying a complete firearm. For these reasons unauthorized persons or those with criminal intent will undoubtedly gravitate to more expedient and cost effective means which is why this bill would do nothing for public safety.

Privately manufactured firearms are rarely used in crimes, and there is little evidence to suggest they pose a nascent threat to public safety. ATF acknowledged this when it filed to dismiss *ATF v. California* in January 2021, stating "While any specific crime is a tragedy, eight such crimes out of the 1.1 million violent crimes committed in the relevant six-year-period is a far cry from an overwhelming wave that would cause a State injury sufficient to confer standing... Nor can California plausibly plead that those crimes would not have occurred with traditional, serialized firearms." In the proposed ATF rule 2021R-05 claims authorities recovered 23,906 unserialized privately manufactured firearms from crime scenes between 2016 and 2020, however That figure pales when you consider the estimated 39.7 million NICS performed checks in 2020 alone. The Baltimore Police Department claims to have seized 2,355 guns in 2021, 352 of which were so-called "ghost guns" built from parts kits. There is a growing body of evidence that clearly shows that the majority of firearms used in crime are obtained illegally. A 2016 survey of prison inmates by the Bureau of Justice Statistics found that 90% of prisoners who possess a gun during their offense did not obtain it from a retail source. The majority (43%) were purchased second hand on the black market and the rest were stolen in some capacity (*Alper and Glaze Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016 NCJ 251776*)

SB 387 would disproportionately affect law abiding Maryland citizens and the penalties for violation are unjustifiably severe. Under these bills any violation is punishable by imprisonment for up to three years for each violation and/or a fine of \$10,000 for each violation. More concerningly, it would be extraordinarily difficult if not impossible for a law-abiding citizen to comply with the new guidelines. Most FFLs in Maryland are not equipped or licensed as class 07 FFLs to serialize firearms. Strict reading of Section 923(i), is limited to "manufacturers' and "importers" who fall within the definition as class 07 manufacturers. Most dealers are not involved in importation of manufacture and cannot simply become such due to the great costs of the expertise and machinery needed to properly serialize a firearm. Most current Class 07 FFLs would likely be unwilling to offer engraving services due to the additional costs from training additional personnel and potential legal liabilities. Gun

owners who are even aware of this potential change in Maryland law would have only six months to find a class 07 FFL who would be willing to assume the costs and legal risks required to comply with SB 387. I do need to reiterate and emphasize this point. It would be extremely difficult in practical terms for a normal, law abiding citizen who has purchased an incomplete lower to then find a service to bring them within compliance of law. As mentioned above SB 387 would do little if anything to curb gun violence but will turn many otherwise law abiding citizens into criminals. I personally find it utterly detestable that such extreme measures would be levied against Citizens who are exercising a right they always had in the attempt to combat a phantom issue.

Building firearms is an opportunity to develop skills and firearms knowledge. Conducting research and selecting each component of your firearm gives the builder a greater understanding of the system collectively which promotes safety and responsibility. "Ghost gun" a politicized term used to frighten and intimidate the general public against homemade firearms and firearm owners. Tracing serialized firearms stops at the last legal firearms owner. If a firearm is stolen, it may well have been resold illegally multiple times and had changed many hands. There isn't very strong evidence to my knowledge that would suggest that the inability to trace a firearm in this manner would have prevented the arrest or prosecution of someone using a firearm illegally. SB 387 would do nothing to prevent illegal possession, and the penalties are far too extreme especially for a first time offender. If Maryland was truly concerned about public safety, perhaps law makers might want to focus on the social and economic conditions that give rise to violence.

As both a Maryland resident and firearms enthusiast I find the issues presented by both House Bill 425 as well as Senate Bill 387 to be extremely troubling. I am admittedly pretty unhappy with the current state of affairs in Maryland and have often considered leaving. Many Americans have migrated to different states between 2020 and now for a variety of reasons though I can state that my primary concern is fairly simple: I feel that my constitutional rights are not being respected in the state of Maryland. Senate Bill 387 and proposals like this are severely out of touch with reality, and will certainly cause issues in the future. I would strongly advise lawmakers to reject this bill wholesale. I do not see a way to amend it in a way that it would not still face legal challenges or impose extreme costs to gun owners and FFLs.

Works Cited

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Greenlee, Joseph. "The American Tradition of Self-Made Arms." SSRN Electronic Journal, 18 Nov. 2021, <https://doi.org/10.2139/ssrn.3960566>. Accessed 16 Feb. 2022.

mcguire_opposed_sb-0387.pdf

Uploaded by: James McGuire

Position: UNF

13 February 2022

James I. McGuire III
3482 Augusta Drive
Ijamsville, MD 21754

IN OPPOSITION TO SENATE BILL 0387

Public Safety – Untraceable Firearms

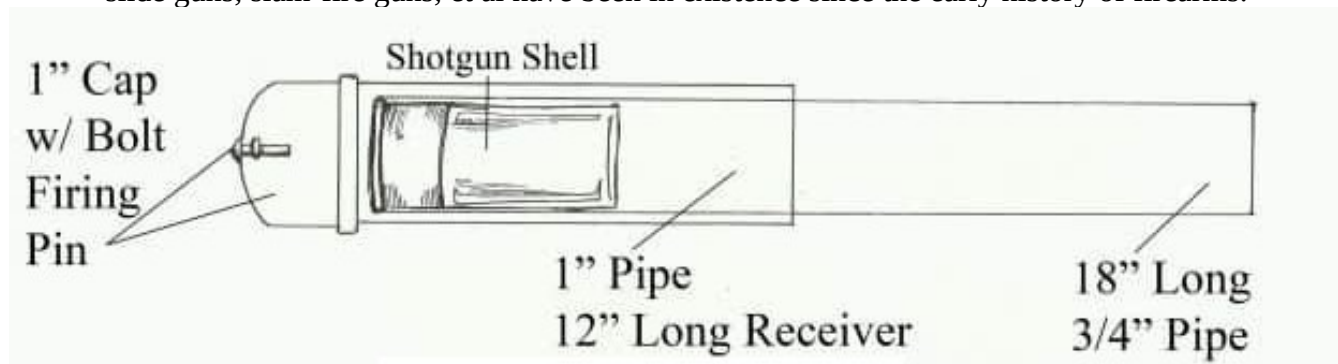
For the following reasons, I strongly OPPOSE Senate Bill 0387 and request an unfavorable report:

- The Constitution of Maryland is explicitly clear in Article 8. “Separation of powers” that: That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

The last time I checked, the Attorney General of Maryland was an officer in the Executive Branch, and has no business submitting a bill to the Legislature – AG Frosh appeared in concert with Delegate Lopez to sponsor the cross-filed version of this bill (HB-0425.) It is abundantly obvious that Senate President Ferguson’s sponsorship (By Request – Office of the Attorney General) is merely administrative shenanigans. President Ferguson failed to appear at HB-0425’s hearing, leaving sponsorship duties to Delegate Lopez and AG Frosh; the latter of which is completely inappropriate and is likely in violation of the Maryland Constitution.

- The language in SB-0387 is excessively broad, and will necessarily create felons of Maryland citizens who simply posses materials that AG Frosh may decide on a whim “MAY READILY BE COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM” (ref. 5-701(H)(1) in the Bill text.) This is a very low bar, as a “zip gun” may be “readily manufactured into a functional firearm” from materials purchased from the plumbing supply section in a local hardware store, or from parts scavenged from a residential plumbing system. The bill seeks to criminalize possession of these materials. AG Frosh’s testimony during HB-0425 indicates that mens rea “intent” need not apply ... simple possession of the items is sufficient for the criminal violation. I do hope the Senators’ homes do not contain soon-to-be-felonious plumbing components.

To wit, I present a simple diagram of a zip gun (classified as a “firearm” by both the ATF and the Maryland Legislature) which can be created as described. This is not conjecture – zip guns, slide guns, slam-fire guns, et al have been in existence since the early history of firearms.



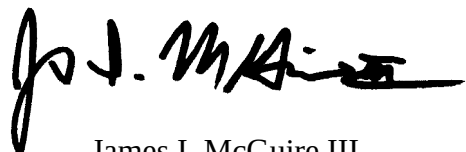
The zip gun in the diagram functions by inserting the shotgun shell into the “barrel” piece, then sliding the “receiver” piece over the end. Sliding the two pieces together forces the firing pin in the pipe cap into contact with the primer in the shotgun shell, initiating the explosive process.

Aside from length modifications, the only machining operation required is the fabrication and installation of the firing pin. Certainly this minimal amount of required transformative effort meets the standard of “readily converted” as specified in this Bill. The diagram, above, contains at least two “unfinished frames” under this Bill – the receiver tube and the end cap – it is unclear if the barrel tube would be considered a “firearm” by itself due to the simplicity of this assembly.

AG Frosh and Delegate Lopez both emphatically state that they have no intent to sweep up hobbyists or other law-abiding citizens. Perhaps they could go back and craft legislation that actually states their intent, instead of forcing the citizens of Maryland to rely on their empty promises.

Senate Bill 387 qualifies as a poorly thought out “hot mess” with a side-order of “we need to do something” and would benefit from withdrawal from further consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James I. McGuire III". The signature is stylized and includes a long horizontal flourish at the end.

James I. McGuire III

Adamson SB387Testimony.pdf

Uploaded by: Jeff Adamson

Position: UNF

Jeffrey Adamson
SB-387 Oppose
Judicial Proceedings Committee
2/15/2022

Members of the Judicial Committee,

My Testimony is in Opposition to SB387.

These types of bills are unnecessary and do nothing to create public safety. These bills are in some cases redundant to existing federal law, and attempt to make a non-firearm object into a regulated firearm. This will leave the judgment of what objects are firearms upto arbitrary interpretation. Further restricting the manufacture of these non firearms just targets people who are Law-Abiding hobbyists, not the criminals you're hoping to target. It's more expensive, time consuming and requires specialized tools to make your own firearms.

In the case of "undetectable firearms" these are already illegal to sell, import or manufacture. Making them more illegal by creating a state law in Maryland does nothing and is moreover a waste of public resources. I'd like to also point out that the person's bills like this would like to target (and are not) are already prohibited from not only owning a firearm, but from having a firearm in their possession at all. Requiring a firearm to have a number on it will do nothing to change this. Making something more illegal will only burden people who are normal everyday marylanders.

Non-Firearm objects are just that, anything. The argument could be made that any object with enough time, energy and money could be made into a firearm. Restricting the sale and possession of these objects is to be frank, just impossible.

A mandate of serial numbers will do nothing to target criminals who use a firearm in a crime. The system for tracing does not yield person to person traceability, in the best circumstances it may yield a distributor to the first point of purchase and nothing more. It is already illegal to manufacture firearms for resale without a manufacturing FFL from the BATF and approval from the state.

This bill seems to cause far more problems than it resolves, By overburdening Law-Abiding creators, and in effect manufactures them into ready made criminals. While not affecting any of the already prohibited persons committing crimes with firearms. I'd ask this, who cares if there is a serial number on a firearm at all? It doesn't help in prosecutions or a chain of custody. I'd ask this of the committee and the Maryland legislature at large, target criminals more effectively and efficiently who commit crimes with firearms.

I respectfully ask that this bill receive an unfavorable report.

-Jeffrey Adamson

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SB387_Jessica_DeTello.pdf

Uploaded by: Jessica DeTello

Position: UNF

Jessica DeTello

SB387 Public Safety – Untraceable Firearms

Unfavorable

2/16/2022

I have family members who are directly impacted by Senate Bill 387. The amount of energy and time being put into punishing gunowners in this state is staggering; there are far more important issues to tackle in this state. This bill also focuses on incarceration over rehabilitation, going directly against past promises on other bills. The punishment also does not fit the “crime” – three years for making just one firearm at home. The current punishment for stealing a firearm is only thirty days – does this disparity seem fair to you?

Please vote unfavorably on Senate Bill 387.

Jessica DeTello

319 Straford Road Catonsville MD 21228

jessicadetello@gmail.com

sb387.pdf

Uploaded by: Joel Fedorko

Position: UNF

I believe that Mark W. Pennak, President, Maryland Shall Issue, Inc. has provided more thorough testimony than I personally can as he stated below :

"The bills would create a massive new gun ban on the possession, receipt, sale, transfer or purchase of un-serialized unfinished receivers and frames. First, the bills provide that "person may not purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms." This ban would go into effect on June 1, 2022. Next, the bills ban mere possession of an unserialized, privately made firearm on or after January 1, 2023. To be lawfully kept after January 1, 2023, all unfinished frames and receivers would have to be serialized as the bills describe. The mere possession of any unserialized item considered to be a firearm is a criminal offense as of 1/1/2023.

The bills create a very broad and new definition of "firearm" to make clear that unfinished receivers will now be considered to be a "firearm." Specifically, the bills define "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that (1) Has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm; or (2) Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted." In this respect, the bills go far beyond the definition of a firearm set forth in federal law. Under federal law, 18 U.S.C. 921(a)(3), a firearm is defined as "(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm."

A similar definition is set forth in current Maryland law. See Md. Code Public Safety, 5-101(h). These bills would amend Section 5-101(h) to include as well an "unfinished frame or receiver" and then define an "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that: * * * (2) Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted." Under this definition, a "zero percent" receiver (a solid block of aluminum, for example) would fall under the bills' coverage if it is sold or marketed as such. The bills do not even attempt to define the meaning of "readily completed, assembled or converted." Nothing in the bills purport to incorporate federal law in this definition.

Notwithstanding the bills' new and radically different definition of a "firearm," the bills otherwise piggyback heavily on federal law. For example, the ban on an unfinished frame or receiver in new Section 5-703(a) applies to all such items "unless it is required by federal law to

be, and has been imprinted with a serial number by a federally licensed firearms manufacturer, or federally licensed firearms importer in compliance with all federal laws and regulations..." Similarly, for existing privately made firearms, the bills require that, before January 1, 2023, a federally licensed dealer, importer, manufacturer, or other federal licensee authorized by federal law to "provide marking services" mark firearms with a serial number that consists of the first three and last five digits of their FFL number, plus "another number," presumably one selected by the federally licensed manufacturer or importer.

The bills require that the inscriptions be in compliance with the federal rules that define depth, height, and method. Specifically, federally licensed manufacturers and importers are required to engrave serial numbers on firearms. See 18 U.S.C. § 923(i). Federal regulations concerning Section 923(i) (also incorporated by the bills) require that the markings required by Section 923(i) must be to a minimum depth of .003 inches and in a print size no smaller than 1/16 inches and "must be placed in a manner not susceptible of being readily obliterated, altered, or removed." 27 C.F.R. § 478.92(a)(1). That process requires a precise and expensive engraving machine. The bills do not require that any federally licensee actually perform this service and the bills likewise do not purport to limit the fees that potential engravers are able to charge. A violation of any of these requirements is punishable by up to 3 years in prison and/or a \$10,000 fine for each violation as each violation is deemed by these bills to be a "separate crime."

Finally, it must be noted that pending regulations issued by the ATF propose to change how the ATF defines a firearm within the definition established by 18 U.S.C. § 921(a)(3) (providing: "The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm."). The notice of proposed rulemaking for these ATF regulations was issued on May 21, 2021. See 86 Fed. Reg. 27720-01 (May 21, 2021). As proposed, the ATF rule would define unfinished receiver "kits" to fall within the federal definition of a "firearm." See 86 Fed. Reg. at 27726. The proposed rule would also define "readily be converted" under Section 921(a)(3) to mean "a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process." (Id. at 27730). The regulations would then list a number of factors to be considered in applying that definition, including cost and difficulty of conversion or assembly. Unlike these bills, nothing in those regulations would purport to reach any "unfinished receiver" that is "marketed or sold to the public to become or be used" as a receiver. Nothing in these proposed regulations would purport to bar private persons from manufacturing their own privately made firearms or otherwise prohibit the possession of such firearms manufactured in the past. These federal regulations are expected to issue in final no later than June of 2022. See Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2021, 87 Fed. Reg. at 5111 (January 31, 2022).

A. Privately Manufactured Firearms Are Rarely Used In Crime And Existing Owners Are Law-Abiding Hobbyists, Not Criminals

These new provisions, if enacted, would burden and penalize an activity that has been perfectly legal under federal and state law for the entire history of the United States, viz., the manufacture of homemade guns for personal use. Under Federal law, a person may legally manufacture a firearm for his own personal use. See 18 U.S.C. § 922(a). However, "it is illegal to transfer such weapons in any way." *Defense Distributed v. United States*, 838 F.3d 451, 454 (5th Cir. 2016). This manufacture typically "involves starting with an '80% lower receiver,' which is simply an unfinished piece of metal that looks quite a bit like a lower receiver but is not legally considered one and may therefore be bought and sold freely. It requires additional milling and other work to turn into a functional lower receiver." (Id).

Manufacturing a typical "80% lower" into a "functional lower receiver" is not a trivial process. It takes tools, expertise and hours of time. Miscues are common and, when made, essentially convert the "80% lower" into scrap. Individuals who undertake this process are hobbyists. Even after the receiver is successfully made, the owner would still have to purchase the additional parts, such as a barrel, the trigger, slide and all the internal parts to complete the assembly. All these additional parts are expensive. With the cost of the tools to mill the receiver, plus the cost of the parts, a final assembled homemade gun may cost more to make than it would to actually buy an identical gun from a dealer.

The complexity of this process has been pointed out in court filings by the ATF and the U.S. Department of Justice. For example, in *State of California v. BATF*, No. 20-cv-0761 (N.D. Cal.), the Department of Justice and the ATF explained:

An unfinished receiver that has not yet had "machining of any kind performed in the area of the trigger/hammer (fire-control) recess (or cavity)," see ATF Firearms Technology Branch Technical Bulletin 14-01 ("Bulletin 14-01"), filed in *Calif. Rifle and Pistol Ass'n v. ATF*, Case No. 1:14-cv-01211, ECF No. 24 at 285 (E.D. Cal. Jan. 9, 2015), requires that numerous steps be performed simply to yield a receiver, that then in turn must be assembled with other parts into a device that can expel a projectile by the action of an explosive. These milling and metalworking steps—each of which require skills, tools, and time—include: 1) "milling out of fire-control cavity"; 2) "drilling of selector-lever hole"; 3) "cutting of trigger slot"; 4) "drilling of trigger pin hole; and 5) "drilling of hammer pin hole." Compl. Ex. 9. Importantly, ATF will treat any "indexing"—the inclusion, in the receiver blank, of visual or physical indicators regarding the two-dimensional or three-dimensional parameters of the machining that must be conducted—as rendering the receiver blank a firearm. See Compl. Ex. 12; Ex. 13; Shawn J. Nelson, *Unfinished Lower Receivers*, 63 U.S. Attorney's Bulletin No. 6 at 44-49 (Nov. 2015) ("Nelson, Unfinished Receivers"), available at: <https://go.usa.gov/x7pP3>. This prevents the makers of receiver blanks from annotating the blank to instruct the purchaser as to the precise measurements needed, in three dimensions, to "excavate the fire control cavity and drill the holes for the selector pin, the trigger pin, and the hammer pin." Nelson, *Unfinished*

Receivers, at 47. The need to conduct these machining steps from scratch, without indexing, and "carefully" means a working gun cannot be produced "without difficulty." Id. And the work to excavate the cavities and drill holes in a solid, unmachined substrate requires care rather than speed to avoid doing so raggedly or in the wrong area. See id. Therefore, the receiver cannot be completed "without delay," even leaving aside the further assembly with many other parts needed to have a weapon that can expel a bullet by explosive action. A receiver blank therefore may not "readily be converted" into a firearm.

Federal Defendants' Notice Of Motion And Motion To Dismiss Plaintiffs' Complaint For Declaratory And Injunctive Relief, at 16-17 (filed Nov. 30, 2020).

There has been much ado made about "kits" that are available from manufacturers, such as Polymer 80 and others. Accordingly to the ATF, such "kits" are made by non-licensed manufacturers "who manufacture partially complete, disassembled, or inoperable frame or receiver kits, to include both firearm parts kits that allow a person to make only a frame or receiver, and those kits that allow a person to make a complete weapon." 86 Fed. Reg. at 27736. Several points bear mentioning.

First, most (if not all) of the unserialized "ghost guns" recovered by the police in Maryland are made from such kits. Indeed, the Baltimore Police Department has announced to great fanfare that ghost gun seizures have increased over the last few years. Yet, according to information we have obtained from the Baltimore Police Department, the BPD seized 2,355 guns in 2021. Of that number, according to the BPD, 352 were "ghost guns," including guns made from kits (Polymer 80s). That is slightly less than 15% of the total number of guns seized in 2021. Baltimore's problem with illegal guns is thus far vaster than "ghost guns." The BPD does not identify separately the number ghost guns actually used in violent crimes and there are few statistics available on the number of ghost guns actually used in crime. What numbers that are available suggest that the use of ghost guns in violent crime is minute. For example, "the Justice Department reported that more than 23,000 weapons without serial numbers were seized by law enforcement between 2016 and 2020 and were linked to 325 homicides or attempted homicides." <https://bit.ly/3GgaT94>. That 325 homicides or attempted homicides represent a tiny percentage of the universe of 23,000 ghost guns seized (0.14%).

Legislation, such as these bills, focusing on "ghost guns" thus will not make the slightest dent in the soaring homicide rate. The numbers in Baltimore bear that out. For example, in 2011, the BPD seized 2,178 firearms (no ghost guns) and the number of murders was 196, of which 88 resulted in arrests (a 44.9% clearance rate). In 2011 there were also 379 non-fatal shootings. In 2020, the BPD seized roughly the same number of guns (2,244) (including 128 ghost guns), and yet the number of murders was 335 of which only 102 resulted in arrests (a 28.7% arrest clearance rate). And by 2020, the number of non-fatal shootings had nearly doubled from 2011 to 724. Similarly, BPD's weapons possession arrests were 1,224 in 2011, but virtually the same in 2020 (1,233), but the number of murders in 2020 were 81.1% higher than in 2011.

We note with sadness that Baltimore is headed for a new record in homicides with 36 killings in January 2022, a pace that would result in 432 murders for 2022, a number never seen in Baltimore before. <https://bit.ly/3KYQzN1>. No word from the BPD if any of these killings came from the use of "ghost guns." The BPD has not released murder arrest numbers for 2021, but we are informed that there were 337 homicides in 2021, 2,355 gun seizures and 726 non-fatal shootings, numbers not much different than 2020. We note that in the years between 2011 and 2021, the General Assembly enacted numerous gun control statutes, including the much-touted Firearms Safety Act of 2013. None of those laws had the slightest impact on crime in Baltimore.

At a minimum, it should be obvious that there is no correlation (much less cause and effect) between guns seized and violent crime. A more relevant statistic is the clearance rate for serious crimes. As noted above, BPD's arrest clearance rate for murder in 2020 was a merely 28.7% and only 44.9% in 2011. By comparison, the nationwide clearance rate for murder is 54.4%. <https://bit.ly/3s3qiVb>. Baltimore's clearance rate for homicides is plainly abysmal, a reality that does not go unnoticed by violent criminals and law-abiding citizens alike. See Johns Hopkins Center for Gun Policy and Research, Reducing Violence And Building Trust at 5 (June 2020) ("In Baltimore neighborhoods most impacted by gun violence, residents lack faith in BPD's ability to bring individuals who commit violence to justice. Perceived risk of being shot and perceptions that illegal gun carrying is likely to go unpunished lead some residents to view gun carrying as a necessary means for self-defense."). In any event, there is no evidence of which we are aware that the inability to trace an unserialized firearm actually has prevented an arrest for any serious violent crime. The General Assembly seriously errs in focusing on "ghost guns" when it should be paying attention to the soaring rate of violent crime.

Second, the proposed regulations issued by the ATF would effectively ban unserialized kits by reclassifying them as "firearms" for purposes of federal law. That reclassification of kits would mean that the frame or receiver of the kit would be required to be serialized (and sold through FFLs like other firearms). Specifically, under the proposed rule, "weapon parts kits with partially complete frames or receivers containing the necessary parts such that they may readily be completed, assembled, converted, or restored to expel a projectile by the action of an explosive would be "firearms" for which each frame or receiver of the weapon, as defined under this rule, would need to be marked." (86 Fed. Reg. at 27736). After the proposed rule goes into effect in June of 2022, such unserialized kits will thus be completely unavailable commercially. Likewise unavailable would be any "readily be converted" unfinished frames or receivers, as the ATF proposed rule would likewise deem such items to be firearms and thus must be serialized in order to be sold legally and only then through FFLs who would perform background checks for these items, just like for any other type of firearm. The only unserialized receivers that would remain unregulated by the ATF would be those receivers that are NOT "readily" converted or assembled into a completed receiver, such as blocks of aluminum sold as "zero percent" receivers and that number is vastly smaller than the current universe of "ghost guns." As noted, the ATF proposed regulations heavily tighten the definition of

"readily" converted, thereby further limiting the number and availability of these remaining types of unfinished receivers.

B. The Bills Would Do Nothing To Prevent Or Deter Criminals From Acquiring Guns While Criminalizing Existing, Law-Abiding Hobbyists

The ATF proposed rule would ban unserialized "kits" and would dry up the market for unserialized receivers. Period, full stop. Yet, ironically, the bans imposed by these bills would not stop any person from actually acquiring any non-regulated receivers that would be left, such as "zero percent receivers." Such items would still not be "firearms" under federal law and thus would not be regulated by federal law. Such items thus would remain available all over the United States, even if the bills should become law and were perfectly enforced 100% of the time. The market for these items is nationwide in scope. Accordingly, nothing in the bans imposed by these bills would or could actually stop any criminal or disqualified person from acquiring all the hardware necessary to make his own gun. All such a person would need do is drive to another state and buy over the counter. The idea that these bills would prevent crime or acquisition of a "ghost gun" is thus fantasy.

More importantly, a disqualified person would not be deterred by these bills because such a disqualified person is already precluded by federal law from possessing any modern firearm or modern ammunition of any type. 18 U.S.C. § 922(g). Actual or constructive possession of a modern firearm or ammunition by a person subject to this firearms disability is a felony, punishable by up to 10 years imprisonment under federal law. See 18 U.S.C. § 924(a)(2). The same disqualification and similar punishments are also already imposed under existing Maryland law. See MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). Simple actual or constructive possession of a receiver alone (as further defined by the ATF rule) would be sufficient to constitute a violation of these existing laws, as a receiver alone is considered a "firearm" under existing Maryland and federal law. See 18 U.S.C. § 921(a)(3); MD Code, Public Safety, § 5-101(h)(1)(ii). These bills would not change that reality an iota. See <https://bit.ly/3rgG9Au> (announcing arrests and prosecutions of violent criminals and illegal gun manufacturers in Cecil County).

These bills go beyond the requirements of federal law and the proposed ATF regulations by making possession of existing privately manufactured firearms illegal. That result simply criminalizes innocent, law-abiding hobbyists and gun owners who have done nothing wrong. Existing criminals in possession of a "ghost gun" can be and should be arrested for illegal possession and the existing punishments for such illegal possession are far harsher than those imposed by these bills. These bills will not change that legal reality. Yet, these bills will also result in the arrest of law-abiding hobbyists. The reality is that few existing, otherwise law-abiding owners of these homemade guns will know or realize that possession of their existing firearms or unfinished frames has been banned. Actual compliance by existing owners will thus likely be virtually non-existent. In short, the bills are utterly pointless as a public safety measure. They would succeed only in turning otherwise law-abiding citizens into criminals. That is not sound public policy.

C. The Bills Impose Impracticable Requirements

The bills provide that "ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT POSSESS A FIREARM UNLESS:

(1) THE FIREARM IS REQUIRED BY FEDERAL LAW TO BE, AND HAS BEEN, IMPRINTED BY A FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED FIREARMS IMPORTER WITH A SERIAL NUMBER IN COMPLIANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS; OR

(2) THE FIREARM HAS BEEN IMPRINTED BY A FEDERALLY LICENSED FIREARMS DEALER OR OTHER FEDERAL LICENSEE AUTHORIZED TO PROVIDE MARKING SERVICES WITH THE FIRST THREE AND LAST FIVE DIGITS OF THE LICENSEE'S FEDERAL FIREARMS LICENSE NUMBER, FOLLOWED BY A HYPHEN, AND THEN FOLLOWED BY ANOTHER NUMBER." Taken together, these requirements banning possession go far beyond federal law. They severely criminalizes (with 3 years of imprisonment) innocent possession by law-abiding hobbyists who may have built these firearms or possessed these frames for years, including all privately made guns built since 1968, a period of approximately 53 years. The bills thus encompass an untold number of home-built firearms, probably numbering in the tens of thousands. The requirements imposed by the bills simply cannot be met, much less by the January 1, 2023, effective date of these bills.

The bills would require every innocent owner of a receiver (or existing firearm) to have it "imprinted" with a serial number "issued by" a federal licensed "firearms manufacturer" importer or other "federal licensee authorized to provide marking services." Such a licensed manufacturer is also known as a "Class 07" FFL and these manufacturers necessarily possess the equipment and expertise to perform serial number markings, as Section 923(i) has imposed this requirement on manufacturers since 1968. While there are many other, non-manufacturer FFLs in Maryland, almost all of these FFLs are dealers who merely sell firearms or perform transfers and are thus classified as Class 01 FFLs. See <https://www.atf.gov/resource-center/types-federal-firearms-licenses-ffls>. These Class 01 dealers do not perform engraving required by Section 923(i) as they are not manufacturers or importers, the two types of entities on whom the duty to engrave serial numbers is imposed by Section 923(i). The proposed ATF rule would require a federally licensed dealer to perform engravings only if an unserialized firearm was accepted by the dealer and thus entered in the dealer's A&D books as an acquired firearm. See 86 Fed. Reg. at 27737 ("FFLs would be required to mark PMFs within 7 days of the firearm being received by a licensee, or before disposition, whichever first occurs."). Since Class 01 dealers cannot perform this function, this requirement would be primarily applicable to Class 07 manufacturers, of which there are relatively few in Maryland, as compared to Class 01 dealers. Nothing in the ATF rule would require any dealer to accept a homemade gun into his inventory or perform any engraving.

The bills require that the marking be done "in compliance with all federal laws," and thus the bills would require the federal licensee to meet the engraving requirements specified in Section 923(i) and implementing federal regulations. Federal regulations require that the markings must be to a minimum depth of .003 inches and in a print size no smaller than 1/16

inches and "must be placed in a manner not susceptible of being readily obliterated, altered, or removed." 27 C.F.R. §478.92(a)(1). That process requires a precision engraving machine. For example, an entry level engraving machine that can fully comply with federal law costs in the neighborhood of \$7,000 and that machine is of low quality. Engage Armaments, a Class 07 manufacturer in Rockville, MD, uses a \$75,000 engraving machine to engrave serial numbers. See attached 2021 illustrated testimony of Andrew Starr Raymond, Co-Owner - Engage Armament LLC, of Rockville, MD (submitted with respect to

2021 bills HB 638 and SB 624). Relatively few manufacturers with this sort of capability to "imprint" a serial number in compliance with federal law even exist in Maryland. Class 01 dealers, of which there are hundreds in Maryland, have neither the expertise nor the equipment to engrave a serial number in a manner compliant with Section 923(i). Arguably, Class 01 dealers are not even authorized by federal law to engage in such engraving as federal law, Section 923(i), expressly is limited to "manufacturers" and "importers."

The bills also require that any federally licensed manufacturer, importer or other federal licensee "authorized to perform marking services" must also "retain records for all firearms imprinted in accordance with all federal laws and regulations applicable to the sale of a firearm." That requirement would impose additional legal risks and costs on the Class 07 dealer, above and beyond the costs of maintaining the equipment and the training necessary to perform engraving markings to the level required by Section 923(i) and federal regulations. Few, if any, dealers would take on these additional costs and risks necessary to meet the demand that would be created by these bills. In sum, these risks and the high costs associated with investing in the equipment and training additional personnel necessary to perform the required engraving would ensure that very few dealers would offer the engraving services to existing owners. Thus, there is no likelihood that such services would be actually available to existing owners by January 1, 2023, the effective date of the ban on mere possession. These practical realities effectively convert the bills into a total ban on the possession of any existing receiver or firearm as it would be virtually impossible for the existing owners to obtain a serial number. The mere six months available to obtain the required engraving is unrealistically short.

D. These Bills Are Overbroad and Violative of the Due Process Clause of the 14th Amendment

As noted, the bills impose a new definition of a "firearm" that goes beyond any federal definition of "firearm." That definition would be far stricter than any definition of firearm that would be imposed by the proposed ATF rule. Specifically, the bills define a firearm to include "A FORGED, CAST, PRINTED, EXTRUDED, OR MACHINED BODY OR SIMILAR ARTICLE THAT: * * * (2) IS MARKETED OR SOLD TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED." Mere possession of such an object would be criminalized after January 1, 2023. This definition leads to absurd results. There is no "reasonable person" modifier for the ban on the possession of an "object" that was marketed or sold for this purpose. There is no mens rea

requirement. The bills impose strict criminal liability for mere innocent possession.

For example, under these provisions, the bills would impose a ban on the mere possession of a "zero percent" receiver (a solid block of aluminum or readily available metal tubing aka pipe) marketed as such. And because that block of aluminum was originally marketed as a zero percent receiver, the bills would criminalize mere possession of the block even though the possessor of this block of solid aluminum intended to use it as a paper weight or a book end or (in the undersigned's case) as a means to illustrate the absurdities of Maryland ghost gun bills. And because the bills strictly ban mere possession, regardless of whether the possessor even knew that the block of aluminum had been "marketed" for these purposes, the bills would likewise criminalize a person who was utterly unaware that the block was originally marketed as a "zero percent receiver." In short, the reach of the bills is vastly overbroad. This overbroad coverage of the bills is particularly pernicious as the bills contain no mens rea requirement and thus impose strict criminal liability for simple possession (or constructive possession) without regard to the owner's actual purpose, knowledge or intent. In contrast, an intent or knowledge requirement is part and parcel of federal gun control law. See, e.g., *Rehaif v. United States*, 139 S.Ct. 2191 (2019) (holding that the "knowingly" requirement on the federal ban on possession of a firearm by an illegal alien required proof that the alien actually knew that he was illegally in the United States). This sort of mens rea requirement is also part of Maryland law. See, e.g., *Chow v. State*, 393 Md. 431 (2006) (holding that a knowing violation of a Maryland statute making it unlawful for a person who is not a regulated gun owner to sell, rent, transfer, or purchase any regulated firearm without complying with application process and seven-day waiting period requires that a defendant knows that the activity they are engaging in is illegal).

Indeed, most recently, the Maryland Court of Appeals has stressed the importance of a mens rea requirement in the context of Maryland's ban on carrying a handgun imposed by Md. Code Criminal Law, § 4-203(a)(1) (providing that "person may not: (i) wear, carry, or transport a handgun, whether concealed or open, on or about the person"). *Lawrence v. State*, 475 Md. 384, 408, 257 A.3d 588, 602 (2021) (discussing the Supreme Court's longstanding presumption that criminal statutes should generally include a mens rea requirement). The Lawrence Court even suggested that a strict liability law could violate the Due Process Clause for lack of notice, taking the extraordinary step of expressly communicating this point to the General Assembly. See *Lawrence*, 475 Md. at 420-21. As the Court stated, these "policy concerns" made it appropriate "to signal to the General Assembly" that, "in light of these policy concerns, ... legislation ought to be considered" to address the scope CR § 4-203(a)(1)(i) given its classification as a strict liability offense." (*Id.* at 422). The General Assembly ignores such "signals" at its peril.

Here, because the bills impose strict liability, it would not matter if the existing owners simply were unaware that these new requirements even exist. Without doing a thing, they would unknowingly wake up on January 1, 2023, as criminals. Such a law is violative of the Due Process Clause as it criminalizes entirely passive conduct by a person who is without actual

knowledge of the requirement. See *Lambert v. California*, 355 U.S. 225, 228 (1957) (striking down a California statute under the Due Process Clause where "entirely passive conduct could subject a defendant to conviction without any knowledge of their duty to comply with the statute"); *Lawrence*, 475 Md. at 420-21 (citing *Lambert*). It should be obvious that few law-abiding citizens follow the legislative sausage-making of the Maryland General Assembly. See also *Conley v. United States*, 79 A.3d 270, 282 (D.C. 2013) ("[T]he requirement of notice embodied in due process 'places some limits' on the application of these tenets [that ignorance of the law is no defense] when a law criminalizes 'conduct that is wholly passive' ... [and] unlike the commission of acts, or the failure to act under circumstances that should alert the doer to the consequences of his deed.").

Indeed, *Lawrence* makes clear that this lack of a mens rea requirement plus the use of vague, ill-defined terms will virtually ensure that these bills will be struck down as unconstitutionally vague. As noted above, *Lawrence* took pains to expressly "signal" the General Assembly that the ban on carrying a handgun "about" the person found in Md. Code Criminal Law, § 4-203(b)(1), is unconstitutionally vague and that the Court would strike it down on that basis in the next appropriate case. See *Lawrence*, 475 Md. at 420-21. These bills are fatally vague in the same way. In particular, the bills criminalize the possession of any unfinished receiver that can be "readily" converted into a firearm. That term is inherently vague. While federal law, 18 U.S.C. § 921(a)(1)(3) uses the same term, existing federal regulations have long limited that term by defining "frame or receiver" to mean: "That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel." See 27 C.F.R. § 478.11. As explained above, the ATF and the Department of Justice have long maintained that an 80% unfinished receiver is not a firearm within the meaning of Section 921(a)(3) because such an object is not "readily converted" into a firearm. The ATF proposed regulation likewise refines that existing definition of a frame or receiver so as to tighten the definition of "readily converted" to include kits and other items. See 86 Fed. Reg. at 27730.

Context also matters. Unlike the bans imposed by these bills, federal law is far narrower, as nothing federal law purports to criminalize mere possession of a receiver by an otherwise law-biding person, much less criminalize the mere possession of an "unfinished" receiver. And nothing in federal law, including the proposed federal ATF regulations, purport to ban or limit an individual's right to make firearms at home for personal use. In contrast, these bills criminalize mere innocent possession and are completely silent as to the meaning of "readily." Indeed, the bills do not even purport to incorporate the federal definition, either the existing definition or the proposed ATF changes to that definition of "readily." A person is left totally at sea as to the meaning under these bills.

In contrast, as noted above, federal firearms law imposes specific mens rea requirements. For example, a violation of 18 U.S.C. § 922(a)(1)(B) (barring "any person" except federal licensees from engaging in the "business" of the manufacture of firearms) is not a crime unless the person "willfully" violates that provision. See 18 U.S.C. § 924(a)(1)(D).

Such a "willful" violation is a 5 year federal felony. (Id.). The Supreme Court has held that "in order to establish a 'willful' violation of a statute, 'the Government must prove that the defendant acted with knowledge that his conduct was unlawful.'" *Bryan v. United States*, 524 U.S. 814, 191-92 (1998), quoting *Ratzlaf v. United States*, 510 U.S. 135, 137 (1994) (emphasis added). No such mens rea requirement is found in these bills.

As noted above, the same unconstitutional lack of notice is self-evident in the bills' strict liability ban on possession of any item that is "marketed" or "sold" as an unfinished lower receiver, as the bills do not require any knowledge that the item was thus marketed or sold. The bills would ban a block of aluminum if it was marketed or sold as zero percent receiver, but would permit the sale and possession of the same block of aluminum if it was marketed or sold as something else. That result is bizarre. Either the block of aluminum is a significant threat to public safety or it is not - how it is "marketed" ought to be irrelevant. In any event, a person possessing such a block of aluminum may have no idea how it was sold or marketed, yet the mere possession of the block would be criminalized by these bills. Indeed, apparent from obvious circumstances, such as a printed advertisement, the term "marketed" is simply too vague to provide an intelligible standard.

The Supreme Court has made clear that such vagueness is particularly intolerable where the terms affect the exercise of a constitutional right. See, e.g., *City of Chicago v. Morales*, 527 U.S. 41, 53 (1999). There, the Court found highly significant that the loitering ordinance in question was a "criminal law that contains no mens rea requirement" and concluded "[w]hen vagueness permeates the text of such a law, it is subject to facial attack." *Id.* at 55. See also *Colautii v. Franklin*, 439 U.S. 379, 394 (1979) ("This Court has long recognized that the constitutionality of a vague statutory standard is closely related to whether that standard incorporates a requirement of mens rea.") (collecting cases). As explained below, these bills use vague language in an effort to regulate the exercise of a Second Amendment right to make firearms for personal use, a practice long steeped in our Nation's history and traditions. In short, these bills will not survive a constitutional vagueness challenge.

Indeed, Nevada's "ghost gun" law was recently struck down on vagueness grounds for failing to adequately define "unfinished frame or receiver" under the Due Process Clause of the Nevada constitution. *Polymer80, Inc. v. Sisolak*, No. 21-CV-00690 (3d Jud. District for Co. of Lyon, December 10, 2021). The court found it significant that Nevada statute, like these bills, did not contain a scienter or mens rea standard. See *Id.*, slip op. at 14. The Nevada courts employ the same test for vagueness as employed by Maryland Court of Appeals under Article 24 of the Maryland Declaration of Rights and by the federal courts under the Due Process Clauses of the Fifth and Fourteenth Amendments. See, e.g., *Flamingo Paradise Gaming v. Att'y General*, 125 Nev. 502, 510 (2009) ("A criminal statute can be invalidated for vagueness (1) if it fails to provide a person of ordinary intelligence fair notice of what is prohibited or (2) if it is so standardless that it authorizes or encourages seriously discriminatory enforcement."); *Galloway v. State*, 365 Md. 599, 614-15, 781 A.2d 851 (2001) ("The void-for vagueness doctrine as applied to the analysis of

penal statutes requires that the statute be 'sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties'" and must provide "legally fixed standards and adequate guidelines for police ... and others whose obligation it is to enforce, apply, and administer [it]" and "must eschew arbitrary enforcement in addition to being intelligible to the reasonable person."); *Kolender v. Lawson*, 461 U.S. 352, 357 (1983) (a penal statute must "define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement"). These bills are awaiting the same fate as the Nevada statute.

Here, for example, the bills' criminal penalties could be imposed even though it would take substantial expertise and a very sophisticated milling machine costing many thousands of dollars to convert a "zero percent" receiver block of aluminum into an 80% receiver, not to mention the additional milling that would be required to convert it into an actual finished receiver. As explained above, additional assembly of more parts (a barrel, a trigger, a slide and associated springs and parts) would then be necessary to convert that finished receiver into something that could actually fire a round of ammunition. It blinks reality to believe that such an object is a significant threat to public safety requiring the imposition of strict liability. That is particularly so when federal law already ban any person (other than a licensee) from engaging in the "business" of manufacture, and federal and State law already criminalizes possession of any receiver by disqualified persons. As the Supreme Court stated in *Rehaif*, it is a "basic principle that underlies the criminal law, namely, the importance of showing what Blackstone called 'a vicious will.'" *Rehaif*, 139 S.Ct. at 2196, quoting 4 W. Blackstone, *Commentaries on the Laws of England* 21 (1769). As a matter of sound public policy and simple fairness, the General Assembly should not be enacting criminal statutes without a mens rea requirement. *Morrisette v. United States*, 342 U.S. 246, 250 (1952) ("The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil.").

Then there are other absurdities associated with the extreme overbreadth of the bills. For example, as explained, the bills effectively require that a Class 07 manufacturer engrave a serial number on this solid block of aluminum marketed as a "zero percent" receiver. Yet, that serial number would then be obliterated should that block ever be actually milled. Any such removal of the serial number would be a federal felony under 18 U.S.C. § 922(k), which makes it a crime to "possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered." A knowing violation of Section 922(k) is punished by up to 5 years in a federal prison. See 18 U.S.C. § 924(a)(1)(B). That reality illustrates the legal absurdity of criminalizing the possession of objects that are not regulated by federal law. In short, in their attempt to be all-encompassing, the bills create multiple unconstitutional traps for the unwary. The bills thus invite arbitrary and discriminatory enforcement. We all know which segments of society will bear the enforcement brunt of these bills. See *McDonnell v.*

United States, 136 S. Ct. 2355, 2373-74 (2016) (noting that "we cannot construe a criminal statute on the assumption that the Government will 'use it responsibly'" (quoting *United States v. Stevens*, 559 U.S. 460, 480 (2010))). In short, given that the ATF is about to abolish the sale of unserialized kits and anything else that can be "readily" converted into a receiver, it is overkill to go beyond that regulation to criminalize additional items, especially in a bill that otherwise incorporates and relies on federal law as setting the appropriate standards.

E. These Bills Are Unconstitutional Under The Second Amendment

As noted, this bills imposes a categorical ban on the mere possession in the home of a previously-owned unfinished receiver or a firearm without a serial number. Such a gun ban violates the Second Amendment right of owners to possess firearms under *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. Chicago*, 561 U.S. 742, 750 (2010). Even under the least demanding test ("intermediate scrutiny"), if the State can accomplish its legitimate objectives without a ban (a naked desire to ban guns or penalize gun owners is not legitimate), then the State must use that alternative. *McCullen v. Coakley*, 134 S. Ct. 2518, 2534 (2014). Stated differently, under intermediate scrutiny, the State has the burden to demonstrate that its law does not "burden substantially more [protected conduct] than is necessary to further the government's legitimate interest." *Id.* at 2535, quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 796 (1989). See also *NY State Rifle & Pistol Assn. v. Cuomo*, 804 F.3d 242, 264 (2d Cir. 2015), cert. denied, 579 U.S. 517 (2016) (striking down a 7 round load limit in a firearm magazine because the limit was "untethered from the stated rationale"). See also *Reynolds v. Middleton*, 779 F.3d 222, 232 (4th Cir. 2015) (holding that, under the intermediate scrutiny test as construed in *McCullen*, the government must "prove that it actually tried other methods to address the problem"). (Emphasis in original).

The test for "strict scrutiny" is even more demanding as, under that test, the State must prove both a "compelling need" and that it used the "least" restrictive alternative in addressing that need. See *United States v. Playboy Entm't. Grp., Inc.*, 529 U.S. 803, 813 (2000). More generally, the constitutionality of gun laws must be analyzed under the "text, history and tradition" test that was actually used in *Heller* and *McDonald*. See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1269 (D.C. Cir. 2016) (Kavanaugh, J., dissenting) ("In my view, *Heller* and *McDonald* leave little doubt that courts are to assess gun bans and regulations based on text, history, and tradition, not by a balancing test such as strict or intermediate scrutiny."). There is no "text, history or tradition" that could possibly support the types of bans imposed by these bills.

We are compelled to note that the Supreme Court may well clarify the appropriate standard of review for Second Amendment cases in its upcoming decision in *NYSRPA v. Bruen*, No. 20-843, cert. granted, 141 S.Ct. 2566 (2021). *Bruen* was argued November 3, 2021, and a decision is expected by June of this year. See also *ANJRPA v. Bruck*, No. 20-1507 (S.Ct.) (challenging New Jersey's ban on so-called large capacity magazines; the petition for certiorari in that case is presently being held by the Supreme Court pending a decision in *Bruen*). We note as well that Maryland's ban on so-called "assault weapons" is currently before the

Supreme Court on a petition for certiorari in *Bianchi v. Frosh*, No. 21-902 (S.Ct.) (docketed December 16, 2021). A decision in *Bruen* may well affect the disposition of that petition as well.

Heller held that guns in "common use" by law abiding persons are prima facie protected arms under the Second Amendment. *Heller*, 554 U.S. at 627. Homemade guns easily satisfy this requirement as there are literally tens of thousands of such guns made over many years throughout the United States. Guns for personal use have been made at home for centuries, even before the Revolutionary War. The State simply may not disregard that reality and outright ban all home manufacture of firearms. See *Caetano v. Massachusetts*, 136 S.Ct.1027 (2016) (summarily reversing Massachusetts' highest court for failing to follow the reasoning of *Heller* in sustaining a state ban on stun guns); *Ramirez v. Commonwealth*, 479 Mass. 331, 332, 352 (2017) (on remand from *Caetano*, holding that "the absolute prohibition against civilian possession of stun guns under § 131J is in violation of the Second Amendment" and declaring the State's absolute ban to be "facially invalid"). Homemade guns are at least as much "in common use" as stun guns at issue in *Caetano*.

Here, the supposed evil that these bills purport to address is guns without serial numbers because such guns are not "traceable." That interest is necessarily limited. Tracing runs out after identification of the gun's first purchaser and firearms may be stolen or sold and resold many times in their lifetime. As explained above, criminals, who may not possess firearms at all, will not be deterred by the bills as possession of a firearm by a prohibited person is already a 10-year federal felony, 18 U.S.C. § 922(g), and a serious crime under existing State law, MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). The few crimes that are solved by tracing guns left at a crime scene are only a small fraction of guns used in crimes because relatively few guns are actually traced by the ATF. See David B. Kopel, *Clueless: The Misuse of BATF Firearms Tracing Data*.

<http://www.davekopel.org/2A/LawRev/CluelessBATFtracing.htm>. See also *Police Departments Fail to Regularly Trace Crime Guns*. <https://www.thetrace.org/2018/12/police-departments-gun-trace-atf/>. The ATF itself has cautioned against any use of trace data, noting that "[t]he firearms selected [for tracing] do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe." Bureau of Alcohol, Tobacco, Firearms and Explosives. *Firearms Trace Data, 2016: Maryland*, <https://www.atf.gov/docs/163521-mdatfwebsite15pdf/download>. As the ATF further notes, "[n]ot all firearms used in crime are traced and not all firearms traced are used in crime," stating further that "[f]irearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime."

But, if the concern is truly that these guns lack a serial number for tracing (rather than an illegitimate desire to criminalize gun owners and hobbyists), then that concern can be fully addressed without banning homemade guns. Specifically, there are alternatives to bans. For example, a law passed in California (which is ranked by the Giffords Law Center as having the most restrictive gun laws in the nation) provides that a new

resident to the state shall apply to the Department of Justice for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously self-manufactured or self-assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification. As of July 1, 2018, prior to manufacturing or assembling a new firearm, a person is required to apply to California for a unique serial number. The gun owner is then simply required to engrave that number onto the receiver and report back to California with proof that he or she has done so. As of January 1, 2019, owners of existing guns were required to apply for such serial numbers and perform this engraving. See California Penal Code §§ 29180-29184. In short, assembly of new homemade guns and existing possession is permitted as long as this serial number is obtained, engraved and reported. California Penal Code §29180. In this way, the owner is identified and the gun is fully "traceable" and thus no longer a so-called "ghost gun." A violation of the California law is punishable with a year imprisonment or a \$1,000 fine if the firearm was a handgun and by 6 months imprisonment and a fine for other types of firearms. (Id.). Connecticut uses a similar system. See Conn. Gen. Stat. 29-36a,b.

Indeed, D.C. has responded to a federal lawsuit by amending its "ghost gun" law to specifically provide that an owner "may register a self-manufactured firearm that does not bear a serial number as described in paragraph (1)(B) of this subsection, if, prior to finishing the frame or receiver, the applicant has caused a unique serial number to be engraved, casted, stamped (impressed), or placed on the unfinished frame or receiver, as set forth in subparagraphs (B) and (C) of this paragraph." Ghost Gun Clarification Emergency Amendment Act of 2021, subsection (b), amending D.C. Official Code § 7-2502.02 (December 13, 2021). This approach allows the continued manufacture of privately made firearms while addressing the perceived need for a serial number. The D.C. approach does not require adherence to federal Section 923(i) standards for such future manufacture - it allows the owner to engrave a number as long as he or she confirms with the MPD "that the proposed serial number has not already been registered to another firearm." (Id.) As these laws indicate, there are less restrictive alternatives. If D.C. can do this, then Maryland can too. There is no reason to take the extreme step of flatly banning homemade guns or converting existing owners into criminals. Under *Heller*, the State may not reject this alternative simply because a draconian general ban is more convenient. Gun owners may not be criminalized for such flimsy reasons. See, e.g., *Bonidy v. Postal Service*, 790 F.3d 1121, 1127 (10th Cir. 2015), cert. denied, 577 U.S. 1216 (2016) ("administrative convenience and economic cost-saving are not, by themselves, conclusive justifications for burdening a constitutional right under intermediate scrutiny").

We note in this regard that, in 2019, the House Judiciary Committee favorably reported and the House of Delegates ultimately passed HB 740 (the bill died in the Senate). That bill expressly required the State Police to conduct a study of this California alternative. These bills unaccountably abandon that approach. Yet, this California approach is even more appropriate (from the State's perspective) given that the ATF regulations will go into effect in June of 2022. Those regulations will effectively dry up the interstate availability of unserialized kits and

other unserialized unfinished receivers that may be "readily" converted into firearms. Those regulations will thus effectively address the future availability of "ghost guns" as no current manufacturer of such unserialized unfinished receivers or kits would be allowed to continue to sell such items. Doing so would be a federal felony, nationwide. See 18 U.S.C. § 922(a)(1)(A) (barring "any person" except federal licensees, from engaging in the "business" of manufacturing or, in the course of such business, from shipping, transporting or receiving any firearm in interstate or foreign commerce); 18 U.S.C. § 924(a)(1)(D) (punishing such conduct as a felony). The bills thus should be more accommodating to existing owners, not more punitive. There is no need to pursue a scorched earth policy against existing law-abiding owners who have committed no crime. The State should have zero interest in needlessly criminalizing otherwise law-abiding Marylanders. Maryland already has more than enough criminals. Plainly, these bills have not exhausted reasonable alternatives.

F. The Penalties Are Excessively Severe

As noted, under these bills any violation is punishable by imprisonment for up to three years for each violation and/or a fine of \$10,000 for each violation (the bills make clear that "each violation . . . is a separate crime"). As noted above, not even California imposes such severe penalties. Similarly, D.C. punishes a violation of its "ghost gun" statute with not more than 1 year imprisonment and a fine of \$2,500. Code of the District of Columbia § 22-4515. By making each privately manufactured firearm a separate crime, the bills empower prosecutors to seek extreme prison terms and fines in the aggregate if the owner happened to possess multiple privately manufactured firearms, as many hobbyists do. Such penalties are breathtaking when applied to existing owners who may have legally possessed their privately manufactured firearms for decades, without incident or any problem. Suddenly, these owners will have a mere 6 months to find a Class 07 FFL manufacturer who is willing and able to mark all his or her homemade firearms in accordance with the bills' strict requirements. And that is assuming that these owners even know about these requirements.

Indeed, only last Session, the "ghost gun" bills would have imposed only a civil penalty for a first offense, not a severe, disqualifying, criminal penalty. See HB 638 and SB 624 (providing that "for a first violation, is guilty of a civil offense and on conviction shall be fined not less than \$1,000 but not exceeding \$2,500"). Those bills did not make each violation "a separate crime." Under these prior bills, a second conviction would have been punishable by imprisonment for 2 years and a \$5,000 fine, still less than 3 years and the \$10,000 fine imposed for each violation by these bills. A misdemeanor crime punishable by 2 years or less is not disqualifying under State and federal law. See 18 U.S.C. § 921(a)(20)(B); Md. Code Public Safety, § 5-101(g)(3). HB 638 and SB 624 last Session thus did not create the permanent disqualification created by these bills. What has changed (other than the involvement of Attorney General Frosh)? There is no evidence whatsoever that existing, law-abiding owners have suddenly turned to a life of crime. Disqualified persons, or persons who misuse their firearms or illegally manufacture and sell guns can be and are arrested and charged with existing serious crimes without criminalizing

the law-abiding owners. There is no public safety justification for treating these law-abiding citizens in such a vindictive, cavalier manner.

G. The Bills' Exemption For Firearms Made "Before 1968" Is Erroneous

The bills provide that the requirements imposed by the bills do not apply to "A FIREARM THAT: (I) WAS MANUFACTURED BEFORE 1968." This exemption is in apparent recognition that serial numbers were not required by federal law until the enactment of the federal Gun Control Act of 1968, Public Law 90-618, 82 Stat. 1213 (1968). However, the Gun Control Act of 1968 was not even enacted into law until October 22, 1968, and that portion of the Act requiring serial numbers (Section 923(i) enacted as part of Section 102 of the Act) did not go into effect until December 16, 1968. See Section 105(a), 82 Stat. at 1226. Thus, by exempting only firearms manufactured "before 1968" the bills erroneously include unserialized firearms made between January 1, 1968, and December 15, 1968. Many thousands of firearms without serial numbers were undoubtedly manufactured during that nearly year-long time period. Many, if not most, of those firearms cannot be distinguished from guns made prior to 1968. The bills' reference to "before 1968" is just lazy and sloppy draftsmanship. The bills should be thus amended to recognize the correct effective date of the Gun Control Act of 1968. After all, this is a criminal statute and thus must be written with precision. See, e.g., *United States v. Vuitch*, 402 U.S. 62, 69 n.3 (1971) (noting the need for "necessary precision in [a] criminal statute").

CONCLUSION

Given all the problems, detailed above, the bills have plainly not been fully thought out. For all these reasons, we strongly urge an unfavorable report."

SB387_JohnDolan_unf.pdf

Uploaded by: John Dolan

Position: UNF

SB387

Submitted by: John P. Dolan

Position: UNFAVORABLE

Dear Chair Smith, Vice-Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee,

I submit the following written testimony in OPPOSITION to Senate Bill 387.

My name is John Dolan, and I live in Reisterstown, Maryland. I do not support the bill for the following reasons:

- 1) The bill is overly broad in its definition of "firearm" which would include unfinished receivers. It is vague in its definition; if a block of plastic is marketed as a "0%" receiver, it would fall under this bill. There is no clear meaning behind the words "readily completed." Does it mean in an hour? In a couple of days? Does it require specialized tools?
- 2) It is an unfunded mandate with large financial repercussions. Only licensees authorized by federal law (FFL's) are allowed to provide marking services. There is no imperative for any of these dealers, importers, manufacturers, or other federal licensees to provide marking services. Any that do choose to offer such a services are allowed to charge whatever price they seem fit, leaving a potentially large cost on the owner of such an item. Many people who make their own firearms do so because it is a cheaper option than purchasing a readily-made firearm. This bill would disproportionately disenfranchise low-income individuals of their Second Amendment rights to keep and bear arms.
- 3) If a gun is already serialized (for instance if a Maryland resident previously made a firearm and serialized it according to ATF recommendations), a FFL would be committing a federal crime by serializing the firearm in compliance with this law.
- 4) As with all gun-control laws, they only serve to further restrict the rights of law-abiding gunowners.

Thank you for your time and consideration. Please vote AGAINST SB387.

Sincerely,

John Dolan

MD Senate JPC Opposing Testimony SB387.pdf

Uploaded by: JOHN GUNDLING

Position: UNF

To: MD Senate Judicial Proceedings Committee

February 16, 2022

From: John H. Gundling

Hagerstown, MD

Dear Folks, I rise in Strong Objection to HB0425 as its language indicts any person that has a screwdriver, hammer, and a block of aluminum as a ghost gun builder. This bill, and its corresponding Senate proposal SB0387, would prohibit private individuals from acquiring or selling "unfinished frames and receivers" within the state starting June 1, 2022. After that date, those parts themselves would be deemed to be "firearms." To be lawfully kept after January 1st, 2023, all unfinished frames and receivers would have to be serialized as the bills describe. The mere possession of any unserialized item considered to be a firearm is a criminal offense as of 1/1/2023.

What is an "unfinished frame or receiver" under these bills? The bills create a very broad new definition of "firearm" to make clear that unfinished receivers will now be considered to be a firearm [Changing the goalposts, are we?]. Specifically, the bills define "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that:

1. Has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm; or
2. Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted."

After some Legal scholars have perused these bills, they infer that under this definition, a "zero percent" receiver might well fall under the bills' coverage if it is sold or marketed as such. The bills do not even attempt to define the meaning of "readily completed, assembled or converted." It appears that the intent of the bills is to piggyback on the elaboration of these terms as defined in the pending ATF regulations which have yet to be finalized. Nothing in those pending regulations purport to cover a zero percent receiver.

Let's for the sake of argument say that I recently picked up a nice hunk of metal, that resembles an unfinished frame or receiver. Now, my cousin has a machine shop and I've asked him to take the hunk of metal and assist me with building a lawnmower engine. Under this definition, subject to interpretation by the government, I'm in possession of an unfinished frame or receiver and after January 1 2023, guilty of a felony punishable by three years in prison and a \$10,000 fine.

We've come a long way baby from "shall not be infringed". As a matter of historical fact, gun making prior to 1791 and after, was a home encouraged industry in the New United States of America.

What if I just serialize my guns at home?

Not unless you're 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; and 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.

What if my homemade gun is already serialized?

The bills offer no accommodation for these types of firearms. They'd have to be serialized as described or dispossessed before the bills go into effect on January 1, 2023.

Can I serialize my 3D-printed gun?

Not unless it can be done in accordance with the federal rules. Serial numbers cannot be legally inscribed directly to polymer due to their vulnerability to being easily obliterated. A *permanently embedded* metal plate capable of accepting a serial number (think of the plate on a Polymer80 or Glock frame) might suffice.

What if I cannot find a dealer or am away when the law goes into effect? What if I didn't know I had to do this?

Doesn't matter. The bills as written contain no requirement that violators knew what they were doing was criminal. They're strict liability crimes. Innocent mistakes or unknowing non-compliance are criminal under these bills. It would appear that the backers of these bills are more interested in criminalizing gun owners than in compliance.

Can I sell my homemade guns?

The bills exempt from coverage "a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by" a federally licensed manufacturer, importer or FFL dealer. Presumably, that means that you would be able to sell your homemade gun to such a federally licensed entity. There is no requirement that such a dealer agree to purchase any firearm.

What if I already have a lawfully registered NFA-regulated item that was homemade?

The language of the bills admits of no exceptions for such items. If the NFA item was not serialized by a federally licensed manufacturer or importer, then it is banned as of 1/1/2023 unless it is serialized in accordance with the bills' requirements before then.

Is there an alternative so that we can keep making our own guns?

Yes. You can keep making your own guns if you use receivers that are serialized by a federally licensed manufacturer or importer. Such receivers are already firearms under existing federal law (and state law) and can be purchased from FFLs.

Otherwise, the bills provide that a person "may not purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver" as of June 1, 2022, and may not "possess" any pre-existing non-serialized unfinished receiver on or after January 1, 2023.

Just for the sake of discussion, how many folks that you know or don't know have gone through deceased relatives' possessions and discover gun parts, entire workable firearms, other paraphernalia related to gun making and gun cleaning, and gunsmithing tools that you never knew your dearly departed relative had? Under these bills, the mere possession of such items, without registration would now be considered illegal.

There has been much ado made about "kits" that are available from manufacturers, such as Polymer 80 and others. Accordingly, to the ATF, such "kits" are made by non-licensed manufacturers "who manufacture partially complete, disassembled, or inoperable frame or receiver kits, to include both firearm parts kits that allow a person to make only a frame or receiver, and those kits that allow a person to make a complete weapon." 86 Fed. Reg. at 27736. Several points bear mentioning:

First, most (if not all) of the unserialized "ghost guns" recovered by the police in Maryland are made from such kits. Indeed, the Baltimore Police Department has announced to great fanfare that ghost gun seizures have increased over the last few years. Yet, according to information obtained from the Baltimore Police Department, the BPD seized 2,355 guns in 2021. Of that number, according to the BPD, 352 were "ghost guns," including guns made from kits (Polymer 80s). That is slightly less than 15% of the total number of guns seized in 2021.

Baltimore's problem with illegal guns is thus far vaster than "ghost guns." The BPD does not identify separately the number ghost guns actually used in violent crimes and there are few statistics available on the number of ghost guns actually used in crime. What numbers that are available suggest that the use of ghost guns in violent crime is minute. For example, "the Justice Department reported that more than 23,000 weapons without serial numbers were seized by law enforcement between 2016 and 2020 and were linked to 325 homicides or attempted homicides." <https://bit.ly/3GgaT94> (<https://bit.ly/3GgaT94>). That 325 homicides or attempted homicides represent a tiny percentage of the universe of 23,000 ghost guns seized (0.14%).

Legislation, such as these bills, focusing on "ghost guns" thus will not make the slightest dent in the soaring homicide rate. The numbers in Baltimore bear that out. For example, in 2011, the BPD seized 2,178 firearms (no ghost guns) and the number of murders was 196, of which 88 resulted in arrests (a 44.9% clearance rate). In 2011 there were also 379 non-fatal shootings. In 2020, the BPD seized roughly the same number of guns (2,244) (including 128 ghost guns), and yet the number of murders was 335 of which only 102 resulted in arrests (a 28.7% arrest clearance rate). And by 2020, the number of non-fatal shootings had nearly doubled from 2011 to 724. Similarly, BPD's weapons possession arrests were 1,224 in 2011, but virtually the same in 2020 (1,233), but the number of murders in 2020 were 81.1% higher than in 2011.

It is noted with sadness that Baltimore is headed for a new record in homicides with 36 killings in January 2022, a pace that would result in 432 murders for 2022, a number never seen in Baltimore before. <https://bit.ly/3KYQzN1> (<https://bit.ly/3KYQzN1>). No word from the BPD if any of these killings came from the use of "ghost guns." The BPD has not released murder arrest numbers for 2021, but we are informed that there

were 337 homicides in 2021, 2,355 gun seizures and 726 non-fatal shootings, numbers not much different than 2020. We note that in the years between 2011 and 2021, the General Assembly enacted numerous gun control statutes, including the much-touted Firearms Safety Act of 2013. None of those laws had the slightest impact on crime in Baltimore.

At a minimum, it should be obvious that there is no correlation (much less cause and effect) between guns seized and violent crime. A more relevant statistic is the clearance rate for serious crimes. As noted above, BPD's arrest clearance rate for murder in 2020 was a merely 28.7% and only 44.9% in 2011. By comparison, the nationwide clearance rate for murder is 54.4%. <https://bit.ly/3s3qiVb> (<https://bit.ly/3s3qiVb>).

Baltimore's clearance rate for homicides is plainly abysmal, a reality that does not go unnoticed by violent criminals and law-abiding citizens alike. See Johns Hopkins Center for Gun Policy and Research, *Reducing Violence And Building Trust* at 5 (June 2020) ("In Baltimore neighborhoods most impacted by gun violence, residents lack faith in BPD's ability to bring individuals who commit violence to justice.

Perceived risk of being shot and perceptions that illegal gun carrying is likely to go unpunished lead some residents to view gun carrying as a necessary means for self-defense."). In any event, there is no evidence of which we are aware that the inability to trace an unserialized firearm actually has prevented an arrest for any serious violent crime. The General Assembly seriously errs in focusing on "ghost guns" when it should be paying attention to the soaring rate of violent crime.

Notwithstanding, the Maryland Bill of Rights, and Constitutional Amendments such as the 2nd, 4th, 5th, 9th, and 14th, wherein issues arise which will and should be redressed as usurpations of any citizens' Inalienable Rights of the United States.

Please dispense with these egregious bills, which do little or nothing for the Public Safety of Marylanders. Thank you for reading.


John H. Gundling Sr.

SB0387_Testimony_Unfavorable_2-16-22.pdf

Uploaded by: John Josselyn

Position: UNF



2A Maryland

2A@2AMaryland.org

Senate Bill 0387
Public Safety - Untraceable Firearms
UNFAVORABLE

For several years, 2A Maryland has submitted Public Information Act (PIA) requests to six major law enforcement agencies seeking information on firearms, including so-called “Ghost Guns.”

Despite the proponents’ allegations that we are facing an imminent public safety crisis, only two law enforcement agencies (Howard County and Baltimore City) reported any data on these firearms. Most of the agencies either did not respond or reported they do not track so-called “Ghost Guns.” (See Attachments 1-4)

In 1994, the hobgoblin was the so-called “assault pistol.” The Maryland General Assembly reacted with a total ban on these firearms. The net result was that criminals who had previously not employed “assault pistols” to any great degree suddenly saw them as a street “status symbol” and many more of these firearms entered the criminal arena than would otherwise have happened. That the “status symbol” perception still exists was made obvious by the recent video of a criminal proudly displaying his “unserialized” handgun on social media.

This Committee would do well to view Ken Burns’ excellent documentary on Prohibition and the Volstead Act. What was intended as a ban, had just the opposite effect. An industry which was subject to limited regulation evolved into the illegal bootlegging industry with homemade distilleries springing up across the country. What was open and controlled when legal went underground and proliferated under prohibition. Neighborhood bars stocked up on liquor. Bars that had closed at 2 AM were replaced with speakeasys which remained open all night. The consumption of alcohol increased nationwide. Organized crime recognized the opportunity to profit and stepped in to take advantage of this new-found enterprise by meeting the demand.

Senate Bill 0387
Unfavorable

The provisions of Senate Bill 387 are difficult to fathom. For example:

Page 4, Lines 11-18

§5-701 (H) "UNFINISHED FRAME OR RECEIVER" MEANS A FORGED, CAST, PRINTED, EXTRUDED, OR MACHINED BODY OR SIMILAR ARTICLE THAT:

(1) HAS REACHED A STAGE IN MANUFACTURE WHERE IT MAY READILY BE COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM; OR (emphasis added)

*(2) IS **MARKETED OR SOLD** (emphasis added) TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED OR CONVERTED.*

Section 5-701 (H)(2) places law-making authority in the hands of Madison Avenue. Any object, no matter how innocuous, can become an "unfinished frame or receiver" by virtue of deceptive advertising and sales.

This entire bill is based upon the adoption of federal regulations which have yet to be enacted and may not be soon. Should the federal regulations not be enacted, or not contain provisions anticipated by the sponsor, the net result will be a ban on these firearms and the instant criminalization of an unknown number of law-abiding citizens.

This bureaucratic nightmare will also impact the 161 Maryland licensed firearm manufacturers (FFL) currently identified by the ATF. Exactly who will be the "manufacturer" is not clear. There are no protections for the FFLs against civil lawsuits which have become increasingly popular among anti-gun organizations.

In the words of a very respected Federal Firearms Licensee:

"As to our discussion concerning dealers serializing 80% frames, receivers and completed non-serialized firearms, from what I understand the ATF is in the process of writing regulations dealing with these items. The person at ATF that I talked to was unable to confirm the legality and process for doing this.

Senate Bill 0387
Unfavorable

Many questions arise such as; 1) can a dealer legally put a serial number on a frame 2) to whom would they report this and with what procedures 3)does the newly serialized firearm need to be put into the dealers federal bound book 4)since a firearm is “manufactured” would Federal Excise Tax need to be paid I feel that without direction from ATF dealers would be very reluctant to put a number on any firearm or frame. We were told that ATF would make a determination concerning this in June.”

Senate Bill 387 will not impact criminals, nor will it enhance public safety or reduce crime. Criminals are already breaking the law when they purchase, possess, or carry a firearm. There is nothing in this Bill which will prevent criminals from conducting business as usual. Violation of this proposed new law is only a misdemeanor offense and is not likely to be prosecuted. At best, it will be a bargaining chip in striking a plea deal. This type of situation was noted by Delegate Attar during her testimony in support of her Bill to elevate straw purchases from a misdemeanor to a felony to make the offense more likely to be prosecuted.

However, to a law-abiding citizen, the prospect of a misdemeanor which carries a sentence which will prohibit the citizen from ever owning a firearm again is daunting. It seems clear that the real target of this Bill is not the criminal, but the law-abiding citizen.

We request this Committee return an unfavorable report on Senate Bill 387.

Respectfully,

John H. Josselyn
2A Maryland

Attachments

Home-Built Handguns - Legal Acts vs. Prohibited Acts					
Under 21 Years of Age			Over 21 Years of Age		
Action	Maryland	Federal	Action	Maryland	Federal
Possess 80% receiver	Legal	Legal	Possess 80% receiver	Legal	Legal
Possess completed receiver	Legal *	Prohibited	Possess completed receiver	Legal	Legal
Possess assembled handgun	Legal *	Prohibited	Possess assembled handgun	Legal	Legal
Own the handgun	Prohibited	Prohibited	Own the handgun	Legal	Legal
Transfer the handgun	Prohibited	Prohibited	Transfer the handgun	Prohibited	Prohibited
Receive a handgun	Prohibited	Prohibited	Receive a handgun	Prohibited	Prohibited
Possess transferred handgun	Prohibited	Prohibited	Possess transferred handgun	Prohibited	Prohibited

* must be supervised by person 21 years of age or older §5-133 (d)(2)

Home-Built Handguns - Legal Acts vs. Prohibited Acts - Persons Currently Prohibited					
Under 21 Years of Age			Over 21 Years of Age		
Action	Maryland	Federal	Action	Maryland	Federal
Possess 80% receiver	Legal	Legal	Possess 80% receiver	Legal	Legal
Possess completed receiver	Prohibited	Prohibited	Possess completed receiver	Prohibited	Prohibited
Possess assembled handgun	Prohibited	Prohibited	Possess assembled handgun	Prohibited	Prohibited
Own the handgun	Prohibited	Prohibited	Own the handgun	Prohibited	Prohibited
Transfer the handgun	Prohibited	Prohibited	Transfer the handgun	Prohibited	Prohibited
Receive a handgun	Prohibited	Prohibited	Receive a handgun	Prohibited	Prohibited
Possess transferred handgun	Prohibited	Prohibited	Possess transferred handgun	Prohibited	Prohibited

Home-Built Rifles - Legal Acts vs. Prohibited Acts					
Under 18 Years of Age			Over 18 Years of Age		
Action	Maryland	Federal	Action	Maryland	Federal
Possess 80% receiver	Legal	Legal	Possess 80% receiver	Legal	Legal
Possess completed receiver	Legal	Legal	Possess completed receiver	Legal	Legal
Possess assembled rifle **	Legal	Legal	Possess assembled rifle **	Legal	Legal
Transfer the rifle	Prohibited	Prohibited	Transfer the rifle	Prohibited	Prohibited
Receive the rifle	Prohibited	Prohibited	Receive the rifle	Prohibited	Prohibited
Possess transferred rifle	Prohibited	Prohibited	Possess transferred rifle	Prohibited	Prohibited

** cannot be so-called assault rifle configuration Maryland Criminal Law Article §4-301 & §4-303

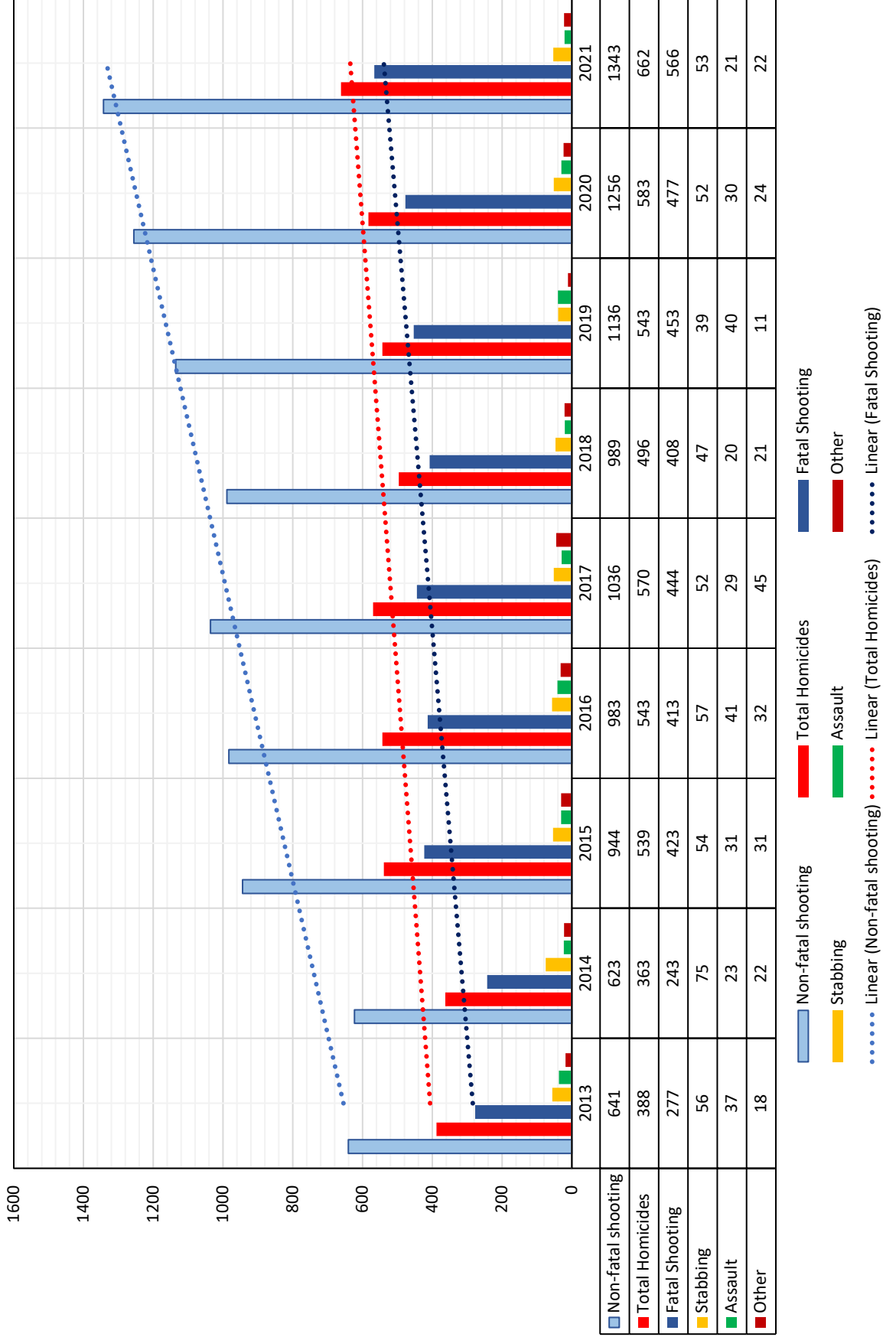
Home-Built Rifles - Legal Acts vs. Prohibited Acts - Persons Currently Prohibited					
Under 18 Years of Age			Over 18 Years of Age		
Action	Maryland	Federal	Action	Maryland	Federal
Possess 80% receiver	Legal	Legal	Possess 80% receiver	Legal	Legal
Possess completed receiver	Prohibited	Prohibited	Possess completed receiver	Prohibited	Prohibited
Possess assembled rifle	Prohibited	Prohibited	Possess assembled rifle	Prohibited	Prohibited
Own the rifle	Prohibited	Prohibited	Own the rifle	Prohibited	Prohibited
Transfer the rifle	Prohibited	Prohibited	Transfer the rifle	Prohibited	Prohibited
Receive the rifle	Prohibited	Prohibited	Receive the rifle	Prohibited	Prohibited
Possess transferred rifle	Prohibited	Prohibited	Possess transferred rifle	Prohibited	Prohibited

2A Maryland - Maryland Gun Laws 1988-2021

Session	Bill Number	Bill Title
1988	HB1131	Handguns - Prohibition of Manufacture and Sale (Saturday Night Special Ban)
1989	SB0531	Firearms - Assault Weapons
1992	SB0043	Firearms - Access by Minors
1993	SB0330	Gun Shows - Sale, Trade or Transfer of Regulated Firearms
1994	HB0595?	Storehouse Breaking - Penalty
1994	SB0619	Assault Pistol Ban
1996	HB0297	Maryland Gun Violence Act of 1996
1996	HB1254	Education - Expulsion for Bringing a Firearm onto School Property
1999	HB0907	School Safety Act of 1999
2000	SB0211	Responsible Gun Safety Act of 2000
2001	HB0305	Bulletproof Body Armor - Prohibitions
2002	HB1272	Criminal Justice Information System - Criminal History Records Check
2009	HB0296	Family Law - Protective Orders - Surrender of Firearms
2009	HB0302	Family Law - Temporary Protective Orders - Surrender of Firearms
2011	HB0241	Criminal Law - Restrictions Against Use and Possession of Firearms
2011	HB0519	Firearms - Violation of Specified Prohibitions - Ammunition and Penalty
2012	HB0209	Public Safety - Possession of Firearms - Crimes Committed in Other States
2012	HB0618	Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms
2013	SB0281	Firearms Safety Act of 2013
2018	HB1029	Criminal Law - Wearing, Carrying or Transporting Loaded Handgun - Subsequent Offender
2018	HB1302	Public Safety - Extreme Risk Protective Orders
2018	HB1646	Criminal Procedure - Firearms Transfer
2018	SB0707	Criminal Law - Firearm Crimes - Rapid Fire Trigger Activators
2019	SB0346	Public Safety - Regulated Firearms - Prohibition of Loans
2020	HB1629	Office of the Attorney General - Firearm Crime, Injuries, Fatalities, and Crime Firearms - Study
2021	HB1186	Office of the Attorney General - Firearm Crime, Injuries, Fatalities, and Crime Firearms - Study Extension

2A Maryland

Maryland Homicides, Non-fatal Shootings & Trends 2013-2021 Data Source: Maryland Coordination & Analysis Center (MCAC)



2A MARYLAND

Homicide Victim / Offender Demographics Data Source: Maryland UCR 2011-2020

Victim - Race	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
White	68	68	69	71	96	85	102	75	88	97
Black	322	301	318	283	449	446	457	402	451	472
Asian	5	3	0	5	4	2	9	5	3	3
American Indian	0	0	0	2	0	0	0	1	0	1
Unknown	3	0	0	2	4	1	1	6	1	0
Total	398	372	387	363	553	534	569	489	543	573
Per Capita Rate	6.8	6.3	6.5	6.1	9.2	8.9	9.4	8.1	9.0	9.5

Victim - Race	2011-2020 Total	Yearly Avg - 10 Years	Ratio to White
White	819	82	1.00
Black	3901	390	4.76
Asian	39	4	0.05
American Indian	4	0	0.00
Unknown	18	2	0.02
Total	4781	478	
Per Capita Rate		7.98	

Offender - Race	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
White	65	44	50	74	85	64	79	58	71	56
Black	258	271	260	186	242	190	305	266	268	310
Asian	1	0	2	2	2	6	2	2	1	2
American Indian	0	0	0	0	0	0	0	1	0	3
Unknown	164	159	158	159	321	339	288	224	285	282
Total	488	474	470	421	650	599	674	551	625	653

Offender - Race	2011-2020 Total	Yearly Average - 10 Years	Ratio to White
White	646	65	1.00
Black	2556	256	3.96
Asian	20	2	0.03
American Indian	4	0	0.01
Unknown	2379	238	3.68
Total	5605	561	

Victim Age Range	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Under 18	32	21	26	30	43	27	43	27	29	30
18-21	57	65	65	40	69	81	64	52	79	89
22-29	130	104	115	110	184	179	194	157	172	165
30 and over	179	182	181	183	257	244	266	251	262	290
Unknown	0	0	0	0	0	3	2	2	2	1

Victim Age Range	2011-2020 Total	Yearly Average - 10 Years
Under 18	308	31
18-21	661	66
22-29	1510	151
30 and over	2295	230
Unknown	10	1

Offender Age Range	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Under 18	12	15	10	16	16	16	17	20	14	18
18-21	56	57	57	38	53	55	64	41	48	53
22-29	81	70	69	76	100	90	102	64	81	83
30 and over	99	72	83	97	103	91	107	99	91	111
Unknown	240	260	251	194	378	347	384	327	394	399

Offender Age Range	2011-2020 Total	Yearly Average - 10 Years
Under 18	154	15
18-21	522	52
22-29	816	82
30 and over	953	95
Unknown	3174	317



2A Maryland

2A@2AMaryland.org

November 5, 2020

Colonel Woodrow Jones III, Superintendent
Department of Maryland State Police
1201 Reisterstown Road
Pikesville, MD 21208

PUBLIC INFORMATION ACT REQUEST

Re: Report on "Ghost Guns" Confiscated in Maryland

Dear Colonel Jones:

A recent funding request (copy attached) from a local gun control advocacy organization alleges *"From January to September of this year, the Maryland State Police reported 22 ghost guns seized in Baltimore and 37 ghost guns seized in Montgomery County."*

I hereby respectfully request copies of any reports and/or data which your agency may have compiled or received from other law enforcement agencies, including but not limited to Baltimore City and Montgomery County directly or indirectly relating to the existence and/or seizure of so-called "Ghost Guns".

The term "Ghost Guns" has no legal definition, for purpose of this request, "Ghost Guns" are those firearms which have never been marked with a serial number and were confiscated from some person other than the person who actually manufactured the regulated part.

Please feel free to contact me with any questions you may have regarding this request.

Respectfully,

John H. Josselyn

Attachment: Ghost Guns 10-05-2020.pdf

HB425-SB387_Attachment_1

From: [Marylanders to Prevent Gun Violence](#)
To:
Subject: Ghost Guns
Date: Monday, October 05, 2020 9:01:56 AM



John

We're hard at work preparing for The Maryland General Assembly's 2021 legislative session. While we aren't ready to share our entire plan yet, we did want to give you a sneak peek at one effort we are focused on.

Last week you may have seen the [article](#) in the Washington Post about the George Mason University student who pleaded guilty to selling ghost guns. This is an increasing problem in Maryland. From January to September of this year, the Maryland State Police reported 22 ghost guns seized in Baltimore and 37 ghost guns seized in Montgomery County.

These guns, free of serial numbers, are a problem as they are untraceable, easily diverted to the underground market and sold to individuals who would not be able to pass a background check. That's why we intend to return to Annapolis to pass legislation regulating the sale of ghost guns.

Please consider [donating](#) so that we can support these efforts.



LARRY HOGAN
GOVERNOR

BOYD K. RUTHERFORD
LT. GOVERNOR

STATE OF MARYLAND
MARYLAND STATE POLICE
1201 REISTERSTOWN ROAD
PIKESVILLE, MARYLAND 21208-3899
410-486-3101
TOLL FREE: 1-800-525-5555
TDD: 410-486-0677



COLONEL
WOODROW W. JONES III
SUPERINTENDENT

November 19, 2020

John H. Josselyn
2A Maryland

RE: PIA 20-3412
1138359363

Copies of any reports and data received from law enforcement agencies related to the existence and/or seizure of Ghost Guns (January to September 2020)

Dear Requester:

While processing your information request, I was advised that the data posted to Marylanders to Prevent Gun Violence's (MDPGV) website, related to the numbers of Ghost Guns seized in Baltimore City (22) and Montgomery County (37), is inaccurate and was not reported by this Department. The numbers were allegedly provided by Montgomery County Assistant State's Attorney (ASA) Robert Hill. ASA Hill confirmed that the numbers were not provided by this Department nor the Baltimore Police Department.

In consideration of the above, are you still desirous of the requested information?

Sincerely,

Mark Urbanik
PIA Coordinator

From: [Mark Urbanik -State Police-](#)
To: [John H. Josselyn](#)
Subject: PIA 20-3412
Date: Thursday, January 07, 2021 3:27:34 PM

RE: PIA 20-3412

Dear Mr. Josselyn,

In response to your original request regarding the request for reports and or data compiled or received from other law enforcement agencies I offer the following information in response:
→ The Maryland State Police has not compiled any data or reports directly or indirectly related to the seizure of ghost guns.

MSP does, however, complete reports when a firearm is seized regardless of whether or not the serial number was removed or did not exist in the first place. The information from those reports is not readily compiled and would require a manual search of every record to determine if the firearm had a serial number or if it was a ghost gun. That cost was previously quoted at \$4,860.80. If you would like the MSP to attempt this manual search please let us know at your convenience.

Sincerely,



Mark Urbanik
Director, Management Analysis
Maryland Department of State Police
Headquarters / Planning & Research
1201 Reisterstown Rd
Pikesville, MD 21208
mark.urbanik1@maryland.gov
(410) 653-4253(O)
[Website](#) | [Facebook](#) | [Twitter](#)

HB425-SB387_Attachment_1



2A MARYLAND

January 10, 2019

PUBLIC INFORMATION ACT REQUEST

PIAs SENT TO:

Anne Arundel County Police Department **Maryland State Police**
Baltimore City Police Department **Montgomery County Police Department**
Baltimore County Police Department **Prince George's County Police Department**

Dear:

Under the Maryland Public Information Act I hereby respectfully request the following firearms data and information for the years 2013 through 2018:

1. Firearms used in crime and recovered. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
2. Firearms used in crime which had serial numbers removed or otherwise obliterated. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
3. Firearms used in crime which never had a serial number (e.g. built from commercially produced 80% complete receivers) and which were produced by private individuals. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
4. Firearms used in crime which never had a serial number, which were produced from raw materials by private individuals. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
5. Firearms used in crime which were produced in whole in in part on a 3D printer of any description. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
6. Firearms used in crime which were produced on CNC machinery (other than by a licensed firearms manufacturer). Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
7. Firearms used in crimes by year and type, which were used by the registered owner during the commission of the crime. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

**NOTE: Prince George's Co. PD acknowledged but provided no info
Montgomery Co. PD did not acknowledge or provide info**

8. Firearms used in crimes by year and type, which were used by someone other than the registered owner during the commission of the crime. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
9. Firearms used in crimes by year and type listed by year and type (rifle, pistol, revolver, shotgun, assault rifle) which were stolen and subsequently returned to the lawful owner.
10. Firearms purchased in gun “buy back” operations between 2000 and 2018 inclusive. Listed by type (rifle, pistol, revolver, shotgun, assault rifle) and which were reported by the lawful owner as stolen.
11. Firearms purchased in gun “buy back” operations between 2000 and 2018 inclusive, listed by year and type (rifle, pistol, revolver, shotgun, assault rifle) which were reported by the lawful owner as stolen, or determined to be stolen, and which were returned to the lawful owner.
12. Your Departmental Policy and Procedures for returning stolen and subsequently recovered firearms to the lawful owner of record.

For the purpose of this request, the data requested on firearms is for numbers only. No serial numbers or descriptive information beyond the type of firearms listed above is requested. Data in Excel electronic format, if possible, would be most helpful.

Please feel free to contact me with any questions you may have.

Respectfully,

John H. Josselyn
410-733-4848
jhjosselyn@2AMaryland.org



Catherine E. Pugh
Mayor

BALTIMORE POLICE DEPARTMENT



Police Commissioner

April 23, 2019

John H. Josselyn
8108 Kirkwall Court
Towson, MD 21286

Re: MPIA Request 19 0096

Dear Mr. Josselyn,

On January 11, 2019 you submitted a request for public records to the Baltimore Police Department's ("BPD") Document Compliance Unit, for the following information:

Request #1. Firearms used in crime and recovered. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Response: BPD has no responsive record. The Evidence Control Unit ("ECU") and the Firearms Analysis Unit ("FAU") are the Custodian of Records that would possibly have the information that you are requesting. Both Custodians don't share a database that collectively have the information that you are requesting. The ECU receives items into BPD custody and manage the storage of the items and many times, when firearms are brought in, no crime is associated with them. The firearms would be categorize as found firearms, firearms held for safekeeping, etc. and after they are in ECU custody, a crime may be associated with it, but ECU does not typically make changes to the status once received. So given this information, in order to provide the information that you are requesting, the Custodians would have to do a manually search of firearms used in a crime. And with that being said BPD would be creating a record, the PIA does not impose an obligation on a custodian to create a document that is responsive to a request. *See* MPIA Manual 14th Ed., October 2015, 3-44 (citing *Yeager v. DEA*, 678 F.2d 315, 324 (D.C. Cir. 1982)) ("[City] has no obligation to *create* records to satisfy a[n] [M]PIA request."); *see also MacPhail v. Comptroller of Maryland*, 178 Md. App. 115, 119 (2008) (explaining that pertinent Federal Freedom of Information Act ("FOIA") cases are "persuasive" authority in Maryland because the MPIA and the FOIA share "virtually identical" purposes.").

Request #2. Firearms used in crime which had serial numbers removed or otherwise obliterated. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

HB425-SB387_Attachment_2

Response: BPD has no responsive record. ECU would be the Custodian of Records for this information. But ECU doesn't always track the serial numbers from firearms for different reasons, such as unable to locate, misinterpretation from the manufacturer, unknown if the firearm is old, or it may just not have a serial number. Giving a list of firearms with obliterated serial numbers from their database would not be accurate and could present a shewed representation of factual information.

Request #3. Firearms used in crime which never had a serial number (e.g. built from commercially produced 80% complete receivers) and which were produced by private individuals. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Request #4. Firearms used in crime which never had a serial number, which were produced from raw materials by private individuals. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Response #3 & #4: BPD has no responsive record. ECU and the FAU would be the Custodian of Records for this information but this information is not currently tracked in either ECU or the FAU. Obtaining this information is unlikely to occur with a time consuming process that would require a review and hand count of all firearms received during the time period requested. Privately manufacturing/producing a firearm for personal use from an 80% lower or raw materials is not illegal. Sharing tools, building in groups, or providing completed lower receivers ("LR") is illegal since The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") considers that manufactured for sale or distribution. FAU does not keep statistics on firearms received that appear to be produced from 80% LR's raw materials. The ATF may be a more reliable source for this information as they maintain lists of licensed firearms manufacturers.

Request #5: Firearms used in crime which were produced in whole in part on a 3D printer of any description. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Request #6: Firearms used in crime which were produced on CNC machinery (other than by licensed firearms manufacturer). Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Response #5 & #6: BPD has no responsive record. ECU and the FAU doesn't track this information in their databases. The ATF may be a more reliable source for this information.

Request #7: Firearms used in crimes by year and type, which were used by the registered owner during the commission of the crime. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Request #8: Firearms used in crimes by year and type, which were used by someone other than the registered owner during the commission of the crime. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Response #7 & #8: BPD has no responsive record. This information is not currently tracked in either ECU or the FAU databases. FAU does not capture this information either because Firearms Examiners analyze the evidence (firearms, and discharged firearms evidence) to determine a source of common origin (i.e. did this bullet come from this firearm). Owner, Suspect, Victim information is not considered so it won't create a potential bias for criminal cases. This information would best be obtained from the State's Attorney's Office.

Request # 9: Firearms used in crimes by year and type listed by year and type (rifle, pistol, revolver, shotgun, assault rifle) which were stolen and subsequently returned to the lawful owner as stolen.

Response: BPD has no responsive records. ECU is the responsible party for conducting the background investigations and returning firearms to their rightful owners. When going back to Response #1, it is unknown how many of the firearms were involved in crimes as compared to those that were not involved in crimes. ECU maintains the custody of evidence as well as personal property not involved in a crime (safekeeping, found property, etc.). Firearms are returned when legally permissible.

Request # 10: Firearms purchased in gun "buy back" operations between 2013 and 2018 inclusive. Listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Response: BPD has no responsive records. There is no information readily available because ECU's database does not track information from "buyback" operations, this information is handled differently. In the December 2018 "buyback" the total number of firearms received was 1,860 and the breakdown was as follows (855 Handguns, 431 Shotguns, 510 Rifles and 64 Misc/Unknown. Firearms that were reported as stolen at the time of the buyback, as determined by personnel who were receiving the firearms at the buyback locations and ran the stolen check (0.59%) and the breakdown was as follows (7 Handguns, 2 Shotguns and 2 Rifles).

Request # 11: Firearms purchased in gun "buy back" operations between 2013 and 2018 inclusive, listed by year and type (rifle, pistol, revolver, shotgun, assault rifle) which were reported by the lawful owner as stolen, or determined to be stolen, and which were returned to the lawful owner.

Response: BPD has no responsive records This is an ongoing process and as of this date none have been returned to their lawful owner. During inventory for 1,860 firearms is a lengthy process, which is still ongoing. Information for the 2018 "buyback" will be contained in a final report when the entire operation is completed.

Request #12: BPD's Departmental Policy and Procedures for returning stolen and subsequently recovered firearms to the lawful owner of record.

Response: The Departmental Policy and Procedures for returning stolen and subsequently recovered firearms to the lawful owner of records is in a draft format and not completed. Once the draft is completed it will be released to the public.

You have the right under PIA § 4-1B-04 to contact the Public Access Ombudsman to mediate any dispute(s) you may have with this response. You may also, contest this response by filing a complaint for Judicial Review in Circuit Court pursuant to PIA § 4-362. Please refer to MPIA tracking # 19 0096 in any subsequent correspondence pertaining to this matter.

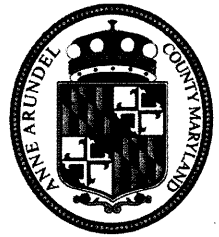
Sincerely,

A handwritten signature in black ink, appearing to read "Dana Abdul Saboor". The signature is fluid and cursive, written over a white background.

Dana Abdul Saboor
Document Compliance Unit
Baltimore City Police Department



Anne Arundel County Police Department
8495 Veterans Highway Millersville, Maryland 21108
(410) 222-8050
www.aacounty.org/police



Timothy J. Altomare
Chief of Police

January 23, 2019

John Josselyn
2A Maryland
8108 Kirkwall Court
Townson, Maryland 21286

Dear Mr. Josselyn,

This letter is in response to your request dated January 11, 2019. Your request has been processed in accordance with the Maryland Public Information Act (MPIA), Annotated Code of Maryland, General Provisions Article § 4-101, et seq. (MPIA). Specifically, you have requested several types of information, all pertaining to firearms used in crimes and policy of return.

Upon search, the attached are all reports that we can produce pertaining to gun crime based on categorization and police report data. I have also enclosed our Department policies regarding release of firearms. Regarding all other listed items, data is not captured and/or indexed and is consequently not searchable on much of the very specific criteria you listed. Therefore, no records are responsive to those requests.

You may challenge any part of this response to your request by filing an action in the appropriate court of law pursuant to MPIA § 4-362. You may also contact the Public Access Ombudsman per MPIA § 4-1B-04.

Respectfully,


Christine Ryder
Custodian of Records

enc.

From: [Ernest Reitz](#)
To: jhosselyn@2AMaryland.org
Cc: [Vickie Wash](#)
Subject: Public Information Request, #NR19-39
Date: Monday, June 17, 2019 12:57:47 PM
Attachments: MPIA #NR19-39.docx
Evidence Retention Field Manual.docx

Hello Mr. Josselyn,

Thank you for your patience as we queried multiple departments within the Baltimore County Police Department in an attempt to fulfill your public information request. After speaking to representatives of our Firearm Interdiction Team, Evidence Management Unit, Forensic Services

Section, and Crime Analysis Units we are unable to provide information for questions one (1) through eleven (11) of your request because that information is not tracked within our department.

We do not have an existing database that captures the information you are seeking. Question twelve (12) or your inquiry is available. I have attached a copy of the BCPD Field Manual which governs the return of seized property (i.e.: firearms). Please do not hesitate to contact me should you have any further questions.

Thank you,

Ernest M. Reitz, Esq.

Director, Legal Section

Baltimore County Police Department

700 East Joppa Road

Towson, Maryland 21286

(410) 887-2211

(410) 887-4933 (fax)

ereitz@baltimorecountymd.gov



CONNECT WITH BALTIMORE COUNTY



www.baltimorecountymd.gov

HB425-SB387_Attachment_2

Request	Response	Notes
(1)Firearms used in crime and recovered.	This data is not tracked.	FIT only tracks the guns their section comes into contact with, not all guns used in crime. Neither the Crime Analysis nor Evidence Management Units track this information.
(2)Firearms used in crime which had serial numbers removed or obliterated.	This data is not tracked.	"
(3)Firearms used in crime which never had a serial number and which were produced by private individuals.	This data is not tracked.	"
(4)Firearms used in crime which never had a serial number which were produced by raw materials by private individuals.	This data is not tracked.	"
(5)Firearms used in crime which were produced in whole or part on a 3D printer.	This data is not tracked.	"
(6)Firearms used in crime which were produced on CNC machinery.	This data is not tracked.	"
(7)Firearms used in crime by year and type, which were used by the registered owner during the commission of a crime.	This data is not tracked.	"
(8)Firearms used in crime by year and type which were used by someone other than the registered owner during the commission of a crime.	This data is not tracked.	"
(9)Firearms used in crimes by year and type, which were stolen and subsequently returned to the lawful owner.	This data is not tracked.	"
(10)Firearms purchased in gun 'buy back' operations between 2013 and 2018, inclusive. Listed by type and were reported by the lawful owner as stolen.	BCPD does not conduct a 'buy-back' program, nor do we track data from other jurisdiction 'buy-back' programs.	"
(11)Firearms purchased in gun 'buy back' operations between 2013 and 2018 inclusive. Listed by year and type which were reported by the lawful owner as stolen, or determined to be stolen, and which were returned to the lawful owner.	See response to #10 above.	"
(12)BCPD policy/procedure for returning stolen and subsequently recovered firearms to the lawful owner of record.	All stolen firearms are returned to lawful owner after a background check determines they are qualified.	See Field Manual Section 7-1.2



LARRY HOGAN
GOVERNOR

BOYD K. RUTHERFORD
LT. GOVERNOR

STATE OF MARYLAND
MARYLAND STATE POLICE
1201 REISTERSTOWN ROAD
PIKESVILLE, MARYLAND 21208-3899
410-486-3101
TOLL FREE: 1-800-525-5555
T D D: 410-486-0677



COLONEL
WILLIAM M. PALLOZZI
SUPERINTENDENT

January 29, 2019

Mr. John H. Josselyn
2A Maryland
8108 Kirkwall Court
Towson, Maryland 21286

RE: Maryland Public Information Act Request concerning Firearms Data and Information (#19-0090)

Dear Mr. Josselyn:

The Maryland State Police has received your request under the Public Information Act (Annotated Code of Maryland, General Provisions Article §§ 4-101 through 4-601) seeking records related to firearms data and information. We received your request on January 16, 2019.

This letter is to inform you that while the Maryland State Police maintains large volumes of records, but we would have to do a hand search for the data that requested. The information that we have would be incomplete as to firearms used in every crime for the years 2013 through 2018 because the Gun Center does not have data for every crime committed with a firearm. I have attached the policy requested in number 10 of your request letter – the policy and procedures for returning stolen and subsequently recovered firearms to the lawful owner of record.

I am required to provide you with notice of the remedies available for review pursuant to GP §4-203. You may seek judicial review of this decision in the appropriate Circuit Court in accordance with GP §4-362. You may also seek dispute resolution in accordance with GP §4-1B-04.

Having supplied a partial answer to you requested, I will close your request in our Public Information Act System.

Sincerely,

Rhea L. Harris
Public Information Act Coordinator

Attachments

“Maryland’s Finest”

HB425-SB387 Attachment_2





December 21, 2020

PUBLIC INFORMATION ACT REQUEST

Anne Arundel County Police Department
Baltimore County Police Department
Baltimore Police Department

Howard County Police Department
Montgomery County Police Department
Prince George's County Police Department

Dear:

Under the Maryland Public Information Act, I hereby respectfully request the following firearms data and information for the years 2018 through 2020:

1. Number of firearms used in crime and subsequently recovered by your agency. Total numbers, by year and firearm type (rifle, pistol, revolver, shotgun, assault rifle).
2. Number of firearms used in a crime and subsequently recovered by your agency which had serial numbers removed or otherwise obliterated. Total numbers listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
3. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number (e.g. built from commercially produced 80% complete receivers) which were subsequently completed by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
4. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number, which were produced from raw materials by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
5. Number of firearms used in crime and subsequently recovered by your agency which were produced in whole in in part on a 3D printer of any description. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
6. Number of firearms used in a crime by the legal registered owner and subsequently recovered by your agency. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
7. Number of firearms used in crimes which were used by someone other than the legal registered owner and subsequently recovered by your agency Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).

8. The number of cases and the number of charges filed for the “Straw Purchase” of a regulated firearm. (Public Safety Articles §5-136 & §5-141)
9. The number of cases and the number of charges filed for the illegal transfer of a regulated firearm by private individuals. (Public Safety Article §5-124)
10. The number of cases and the number of charges filed for the possession of ammunition by a prohibited person. (Public Safety Articles §5-133 & §5-133.1)

For the purpose of this request, the data requested on firearms is for numbers only. No serial numbers or descriptive information beyond the type of firearms listed above is requested. Data in Excel electronic format, if possible, would be most helpful.

Please feel free to contact me with any questions you may have.

Respectfully,

John H. Josselyn

jhjosselyn@2AMaryland.org

CALVIN BALL
County Executive



LISA D. MYERS
Chief of Police

HOWARD COUNTY DEPARTMENT OF POLICE
3410 Court House Drive, Ellicott City, Maryland 21043

Mr. John H. Josselyn
jhjosselyn@2AMaryland.org

Dear Mr. Josselyn:

In response to your request under the Maryland Public Information Act §4-101 et. Seq. of the General Provisions Article of the Annotated Code of Maryland (PIA), for records relating to “firearms data and information for the years 2018 through 2020.” Please find below the responsive data for items number 1,2,3,8,9, and 10.

Item 1 - Number of Incidents with Firearm

	HANDGUN	RIFFLE	OTHER FIREARM	SHOTGUN	INCIDENTS
2018	121	9	12	3	145
2019	133	9	18	6	166
2020	141	7	15	6	169

Item 2 - Serial Numbers Removed or Obliterated

	HANDGUN	RIFFLE	OTHER FIREARM	SHOTGUN	TOTAL
2018	3	0	0	1	4
2019	3	0	0	0	3
2020	1	0	0	0	1

Item 3 - Never Had Serial Number

	HANDGUN	RIFFLE	OTHER FIREARM	SHOTGUN	TOTAL
2018	2	0	0	0	2
2019	8	3	0	0	11
2020	7	0	0	0	7

Items 8 and 9 and 10 - Charges Filed

	PS §5-136	PS §5-141	PS §5-124	PS §5-133	PS §5-133.1
2018	0	0	0	42	19
2019	0	0	0	71	24
2020	0	0	1	53	16

TELEPHONE: 410-313-3200
FAX: 410-313-3295
WWW.HOWARDCOUNTYMD.GOV
HCPD@HOWARDCOUNTYMD.GOV



Nationally Accredited Since 1990

HB425-SB387 Attachment 3



Anne Arundel County Police Department
8495 Veterans Highway Millersville, Maryland 21108
(410) 222-8050
www.aacounty.org/police



Timothy J. Altomare
Chief of Police

January 12, 2021

John Josselyn
2A Maryland


Dear Mr. Josselyn,

This letter is in response to your request dated December 20, 2020. Your request has been processed in accordance with the Maryland Public Information Act (MPIA), Annotated Code of Maryland, General Provisions Article § 4-101, et seq. (MPIA). Specifically, you have requested several types of information, all pertaining to firearms used in crimes and policy of return.

Upon search, most data sets that you have requested pertaining to information that we either do not collect or do not index in a searchable manner. I have attached three reports: Violent Crime with Guns, Stolen and Recovered Guns* and Count of Applied Selected Charges. Please note that the first two are YTD data for 2020. As we are not yet done validating police reports for that calendar year, the data is subject to change. Regarding the report of charges, please note that the data reflects what is in our system currently and does not include charges applied and later expunged by court order. Regarding all other listed items, no records are responsive to those requests. However, some unrelated data has been compiled by way of report review to provide certain elements for Anne Arundel County's Gun Violence Protection Task Force, which I have also included for reference should you be interested.

You may challenge any part of this response to your request by filing an action in the appropriate court of law pursuant to MPIA § 4-362. You may also contact the Public Access Ombudsman per MPIA § 4-1B-04.

Respectfully,


Christine Ryder
Custodian of Records

enc.

MPIA Firearms Data Request

#1) Firearms received by Type-This as specific as we break it down for reporting

	2018	2019	2020
Total	2713*	2214	2283
Semi Auto Handguns	1649	1378	1562
Revolvers	449	341	319
Long Arms (shotguns, rifles, etc.)	538	411	298
Other (Blank, starter, etc.)	75	84	104

**This gun total represents ~1800 guns from the gun buyback and are incorporated in the numbers.*

#2) Firearms received with obliterated serial numbers

2018	2019	2020
106	69	50

#3 & #4) Firearms received that never had a serial number-Ghost Guns (80%'s and raw materials) we do not differentiate between the two

2018	2019	2020
12	48	143

#5) Firearms received that never had a serial number-3D printed guns. We had one as part of a gun from the buyback in 2018.

NOTE: THIS DATA FROM BALTIMORE CITY POLICE DEPARTMENT

JOHN A. OLSZEWSKI, JR.
County Executive



JAMES R. BENJAMIN, JR.
County Attorney, Office of Law

April 2, 2021

VIA Electronic Mail

Mr. John H. Josselyn
jhjosselyn@2AMaryland.org

Re: MPIA Request #NR21-18 – Request for all data information on firearms from BCoPD 2018 - 2020

Dear Mr. Josselyn:

On January 5, 2021, you submitted a public information request to the Baltimore County Police Department (“BCOPD”) for firearms data and information for the years 2018 through 2020; more specifically for the items listed below. Your request was referred to the Baltimore County Office of Law for review and response. Your request is governed by the Maryland Public Information Act (“PIA”), Maryland Code, General Provisions Article (“GP”), §§ 4-101 *et seq.*

The ten (10) specific items are as follows:

1. Number of firearms used in crime and subsequently recovered by your agency. Total numbers, by year and firearm type (rifle, pistol, revolver, shotgun, assault rifle).
2. Number of firearms used in a crime and subsequently recovered by your agency which had serial numbers removed or otherwise obliterated. Total numbers listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
3. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number (e.g. built from commercially produced 80% complete receivers) which were subsequently completed by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
4. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number, which were produced from raw materials by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
5. Number of firearms used in crime and subsequently recovered by your agency which were produced in whole in in part on a 3D printer of any description. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
6. Number of firearms used in a crime by the legal registered owner and subsequently recovered by your agency. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
7. Number of firearms used in crimes which were used by someone other than the legal registered owner and subsequently recovered by your agency Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Mr. John H. Josselyn
April 2, 2021

8. The number of cases and the number of charges filed for the "Straw Purchase" of a regulated firearm. (Public Safety Articles § 5-136 & § 5-141)
9. The number of cases and the number of charges filed for the illegal transfer of a regulated firearm by private individuals. (Public Safety Article § 5-124)
10. The number of cases and the number of charges filed for the possession of ammunition by a prohibited person. (Public Safety Articles § 5-133 and § 5-133.1)

BCoPD advised that the information you are requesting in numbers 1 – 7 are not captured in the manner you are seeking. BCoPD further advised that the Evidence Management Unit ("EMU") takes in weapons and associates them with specific cases; there is no way to determine if the weapons recovered/seized are actually those that were used in the crime. In many cases, multiple weapons are recovered when a warrant is served, but no database flags a weapon as the "weapon seen/used" in the offense. The EMU database does capture notes with regard to whether the weapon had a missing or obliterated serial number.

Accordingly, please find the attached excel spreadsheets BCoPD provided as responsive to your request. Also, BCoPD notes that the data provided captured both obliterated and missing serial numbers as weapons with "NO_SERIAL". Again, BCoPD advised it may not be the weapon seen or used in the crime.

As it pertains to numbers 8-10 of your request, BCoPD advised that States Attorney's Office is the custodian of the requested records. The contact information for the State's Attorney Office is:

John Cox, Deputy State's Attorney
County Courts Building
401 Bosley Avenue, Room 511
Towson, Maryland 21204
jcox@baltimroecountymd.gov

Nothing in this response is intended to indicate that any records sought from BCoPD exist or to waive any privileges held by the BCoPD. You have the right under GP § 4-1B-04 to contact the Public Access Ombudsman to mediate any dispute(s) you may have with this response. You may also, contest this response by filing a complaint for Judicial Review in Circuit Court pursuant to GP § 4-362. Please refer to PIA tracking #NR21-18 in any subsequent correspondence pertaining to this matter.

Sincerely,

Alexa E. Ackerman

Alexa E. Ackerman
Assistant County Attorney
Baltimore County Office of Law

AEA/jad
Attachment



PRINCE GEORGE'S COUNTY POLICE DEPARTMENT

8801 POLICE PLAZA

UPPER MARLBORO, MARYLAND 20772

ANGELA D. ALSOBROOKS
COUNTY EXECUTIVE



MALIK AZIZ
CHIEF OF POLICE

Aug. 11, 2021

VIA ELECTRONIC MAIL

Mr. John H. Josselyn
2A Maryland
8108 Kirkwall Court
Towson, MD 21286
jhosselyn@2AMaryland.org

Re: MPIA Request

Dear Mr. Josselyn:

This is the final response from the Prince George's County Police Department. To your request for records made pursuant to the Maryland Public Information Act ("MPIA"). You were requesting the following documents;

1. Number of firearms used in crime and subsequently recovered by your agency. Total numbers, by year and firearm type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**
2. Number of firearms used in a crime and subsequently recovered by your agency which had serial numbers removed or otherwise obliterated. Total numbers listed by year and type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**
3. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number (e.g. built from commercially produced 80% complete receivers} which were subsequently completed by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle). Those numbers are not kept in a traceable data base. **Those numbers are not kept in a traceable data base that fits your request.**
4. Number of firearms used in crime and subsequently recovered by your agency which never had a serial number, which were produced from raw materials by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**
5. Number of firearms used in crime and subsequently recovered by your agency which were produced in whole in in part on a 30 printer of any description. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**

HB425-SB387_Attachment_3

6. Number of firearms used in a crime by the legal registered owner and subsequently recovered by your agency. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**

7. Number of firearms used in crimes which were used by someone other than the legal registered owner and subsequently recovered by your agency Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle). **Those numbers are not kept in a traceable data base that fits your request.**

8. The number of cases and the number of charges filed for the "Straw Purchase" of a regulated firearm. (Public Safety Articles §5-136 & §5-141) **Those numbers are not kept in a traceable data base that fits your request.**

9. The number of cases and the number of charges filed for the illegal transfer of a regulated firearm by private individuals. (Public Safety Article §5-124) **Those numbers are not kept in a traceable data base that fits your request.**

10. The number of cases and the number of charges filed for the possession of ammunition by a prohibited person. (Public Safety Articles §5-133 & §5-133.1) **Those numbers are not kept in a traceable data base that fits your request.**

In closing, you may seek judicial review of this decision pursuant to Maryland Code Ann., General Provisions, §4-362. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 et seq. If you have any questions or need to contact me regarding this matter, I can be reached during normal business hours at (301) 516-5978.

Sincerely,

John T. Mitchell

John T. Mitchell

Associate County Attorney



2A Maryland

2A@2AMaryland.org

November 8, 2021

PUBLIC INFORMATION ACT REQUEST

Anne Arundel County Police Department
Baltimore County Police Department
Baltimore Police Department

Howard County Police Department
Montgomery County Police Department
Prince George's County Police Department

Dear :

Under the Maryland Public Information Act, I hereby respectfully request the following firearms data and information for the years 2018 through October 31, 2021:

1. Number of firearms recovered by your agency. Total numbers, by year and firearm type (rifle, pistol, revolver, shotgun, assault rifle).
2. Number of firearms recovered by your agency and which had serial numbers removed or otherwise obliterated. Total numbers listed by year and type (rifle, pistol, revolver, shotgun, assault rifle).
3. Number of firearms recovered by your agency and which never had a serial number (e.g. built from commercially produced "80% complete" receivers) which were subsequently completed by a private individual. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
4. Number of firearms recovered by your agency and which were produced in whole in part on a 3D printer of any description. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
5. Number of firearms used in a crime by the legal registered owner and subsequently recovered by your agency. Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).
6. Number of firearms used in crimes which were used by someone other than the legal registered owner and subsequently recovered by your agency Total numbers by year and type (rifle, pistol, revolver, shotgun, assault rifle).

Failed to respond:

Baltimore County PD, Prince George's Co PD & Montgomery Co PD

HB425-SB387_Attachment_4

Recipient's name
Page 2 of 2

For the purpose of this request, the data requested on firearms is for numbers only. No serial numbers or descriptive information beyond the type of firearms listed above is requested. Data in Excel electronic format, if possible, would be most helpful.

Please feel free to contact me with any questions you may have.

Respectfully,

John H. Josselyn

jhjosselyn@2AMaryland.org

HB425-SB387_Attachment_4



STEUART PITTMAN
COUNTY EXECUTIVE

ANNE ARUNDEL COUNTY POLICE DEPARTMENT

8495 VETERANS HIGHWAY
MILLERSVILLE | MARYLAND | 21108
(410) 222-8500 | www.aacounty.org



AMAL E. AWAD
CHIEF OF POLICE

November 29, 2021

John Josselyn
2A Maryland


Dear Mr. Josselyn,

This letter is in response to your request dated November 8, 2021. Your request has been processed in accordance with the Maryland Public Information Act (MPIA), Annotated Code of Maryland, General Provisions Article § 4-101, et seq. (MPIA). Specifically, you have requested several types of information, all pertaining to firearms used in crimes and policy of return.

Upon search, most data sets that you have requested pertaining to information that we either do not collect or do not index in a searchable manner. As in the past, I have attached three reports: ~~Violent Crime with Guns, Stolen and Recovered Guns and Count of Applied Selected Charges.~~ Regarding the report of charges, please note that the data reflects what is in our system currently and does not include charges applied and later expunged by court order. Regarding all other listed items, no records are responsive to those requests. However, some unrelated data has been compiled by way of report review to provide certain elements for Anne Arundel County's Gun Violence Protection Task Force, which I have also included for reference should you be interested.

You may challenge any part of this response to your request by filing an action in the appropriate court of law pursuant to MPIA § 4-362. You may also contact the Public Access Ombudsman per MPIA § 4-1B-04.

Respectfully,


Christine Ryder
Custodian of Records

enc.

HB425-SB387_Attachment_4



From: [Hurst, Kenneth](#)
To: jhosselyn@2amaryland.org
Subject: MPIA 21 2343 Gun Numbers Request
Date: Tuesday, December 14, 2021 8:59:50 AM
Attachments: Gun Numbers Request.pdf
MPIA 21 2343 data.docx

Dear Mr. John Josselyn:

In reference to your request for gun numbers under MPIA 21 2343. Please see the attached which will satisfy this request.

Thank you

Ken Hurst
Baltimore Police Department
Operations Assistant II
Document Compliance Coordinator
Office of Legal Affairs
410-637-8684

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HB425-SB387_Attachment_4

Baltimore City Police Department - MPIA Firearms Data Request

#1) Firearms received by Type-This as specific as we break it down for reporting

	2018	2019	2020	2021**
Total	2713*	2214	2283	2159
Semi Auto Handguns	1649	1378	1562	1567
Revolvers	449	341	319	220
Long Arms (shotguns, rifles, etc.)	538	411	298	300
Other (Blank, starter, etc.)	75	84	104	25

**This gun total represents ~1800 guns from the gun buyback and are incorporated in the numbers.*

#2) Firearms received with obliterated serial numbers

2018	2019	2020	2021**
106	69	50	112

#3 & #4) Firearms received that never had a serial number-Ghost Guns (80%'s and raw materials) we do not differentiate between the two

2018	2019	2020	2021**
12	48	143	323

#5) Firearms received that never had a serial number-3D printed guns. We had one as part of a gun from the buyback in 2018.

***The 2021 number is from Jan 1-Nov 30, 2021.*

HB425-SB387_Attachment_4

CALVIN BALL
County Executive



LISA D. MYERS
Chief of Police

HOWARD COUNTY DEPARTMENT OF POLICE
3410 Court House Drive, Ellicott City, Maryland 21043

12/14/2021

Mr. John H. Josselyn
jhjosselyn@2AMaryland.org

Dear Mr. Josselyn:

In response to your request under the Maryland Public Information Act §4-101 et. Seq. of the General Provisions Article of the Annotated Code of Maryland (PIA), for records relating to “firearms data and information for the years 2018 through October 31, 2021.” Please find below the responsive data for items number 1,2,3, and 4.

Item 1 - Number of Firearms Recovered by your Agency

	Handgun Revolver/ Pistol	Rifle	Other Firearm	Shotgun	Total
2018	152	89	0	59	300
2019	188	87	0	54	329
2020	139	49	0	23	211
1/1/21 - 10/31/2021	139	45	0	25	209

Item 2 - Serial Numbers Removed or Obliterated

	Handgun Revolver/ Pistol	Rifle	Other Firearm	Shotgun	Total
2018	3	0	0	1	4
2019	3	0	0	0	3
2020	1	0	0	0	1
1/1/21 - 10/31/2021	1	0	0	0	1

Item 3 - Never Had Serial Number

	Handgun Revolver/ Pistol	Rifle	Other Firearm	Shotgun	Total
2018	2	0	0	0	2
2019	8	3	0	0	11
2020	7	0	0	0	7
1/1/21 - 10/31/2021	11	1	0	0	12

TELEPHONE: 410-313-3200
FAX: 410-313-3295
WWW.HOWARDCOUNTYMD.GOV
HCPD@HOWARDCOUNTYMD.GOV



HB425-SB387_Attachment_4

CALVIN BALL
County Executive



LISA D. MYERS
Chief of Police

HOWARD COUNTY DEPARTMENT OF POLICE
3410 Court House Drive, Ellicott City, Maryland 21043

Item 4 - 3D Printed

	Handgun Revolver/ Pistol	Rifle	Other Firearm	Shotgun	Total
2018	0	0	0	0	0
2019	0	0	0	0	0
2020	0	0	0	0	0
1/1/21 - 10/31/21	1	1	0	0	2

Please be advised that item numbers 5 and 6 will require a hand review of approximately six hundred eleven (611) incident reports. The estimated time it will take to review these reports is 38 hours.

Pursuant to the Act, you may be charged a reasonable fee for the search, preparation and reproduction of the requested records. By law, the first two (2) hours of labor costs are provided to you at no charge. The time expended complying with your request at this point is 2 hours. The review of the incident reports to obtain data for items 5 and 6 fee estimation is \$ 984.20. If you would like the Department to complete this research, and review of the incident reports to obtain the data requested in items 5 and 6, please submit a check or money order made payable to the Howard County Director of Finance for the total fee amount listed above, upon receipt the Department will begin the process of the review.

Please be advised that you have the right to judicial review of the denial of a part of a public record pursuant to Section §4-362 of the General Provisions Article by filing a petition in the Circuit Court for Howard County or in the Circuit Court in Maryland in which you reside or maintain a principal place of business. If you have any questions or concerns, please do not hesitate to contact me at 410-313-2280.

Sincerely,

Jeanne Upchurch
Custodian of Record
Howard County Department of Police

JU/sha

TELEPHONE: 410-313-3200
FAX: 410-313-3295
WWW.HOWARDCOUNTYMD.GOV
HCPD@HOWARDCOUNTYMD.GOV



HB425-SB387_Attachment_4

NSFF SB 387 - Untraceable Firearms - Oppose.pdf

Uploaded by: John Pica

Position: UNF



TREVOR W. SANTOS

Director, Government Relations - State Affairs

tsantos@nssf.org | 202-220-1340 x205 | nssf.org

February 14, 2022

The Honorable William Smith Jr.
Chair, Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

SENATE BILL 387 OPPOSE

Re: Senate Bill 387 - Public Safety - Untraceable Firearms

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee:

On behalf of the National Shooting Sports Foundation (“NSSF”), the trade association for America’s firearm, ammunition, hunting and shooting sports industry, and our over 9,000 members, we strongly oppose Senate Bill 387 (“SB 387”), legislation that would redefine “firearm” to include “unfinished frames and receivers.”

With a membership comprised of thousands of manufacturers, distributors, retailers, shooting ranges, sportsmen’s organizations, and publishers across the country, the NSSF advocates on behalf of the Industry and its related businesses (the “Industry”) while also working to prevent illegal or unauthorized access of firearms, encouraging the enjoyment of recreational shooting and hunting, and helping citizens to better understand the Industry’s constitutionally protected products and services. Our manufacturer members make the firearms used by law-abiding Maryland sportsmen and women, the U.S. military, and law enforcement agencies throughout the state. With this mission in mind, we strongly oppose SB 387 and the Maryland General Assembly’s attempt to redefine what a firearm is to include unfinished frames or receivers.

“Privately Made Firearms” (PMFs) are and have been legal and not regulated under federal law. Accordingly, there is no legal requirement that they have any markings including a serial number. They are predominantly a hobbyist option and require more time, tooling, and dedication to craftsmanship than most criminals are willing to invest. According to the 2016 Bureau of Justice Statistics survey “Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates,” we know that criminals very seldom acquire firearms from legal means. It is of great concern to the Industry that official counts of PMFs recovered from crime scenes are in fact commercially made firearms with obliterated serial numbers. NSSF has been unsuccessful in its attempt to acquire a report quoted by the Department of Justice (DOJ) and in the media about the purported 23,000 unserialized firearms recovered by law enforcement from 2016 to 2020.¹ Nevertheless, that some number of PMFs may have been recovered at crime scenes does not change the fact that Congress has not chosen to regulate these items.

SB 387 puts unnecessary and cumbersome obligations on the part of licensed retailers by requiring that they serialize the private property (PMFs) of their customers. However, there is no

¹ <https://www.justice.gov/opa/pr/justice-department-proposes-new-regulation-update-firearm-definitions>

statutory basis in the federal Gun Control Act to require licensees, other than manufacturers and importers, to mark firearms.² Moreover, consumers are very likely to refuse to bring PMFs to licensed retailers (gunsmiths) because they may not wish to have their PMF marked. This would mean PMFs in need of repair, so they are safe to use, will not be fixed. Because they are not manufacturers or importers, licensed retailers (gunsmiths) lack the necessary specialized tools, technology, and knowledge to mark PMFs in accordance with SB 387.

SB 387 aims to address the perceived “ghost gun” issue described above by capturing more firearms in the traceable pool of firearms. This would likely not address violent crime or unauthorized access to firearms in a meaningful way, however, because it is well known that criminals will obliterate serial numbers, a crime on its own, to thwart law enforcement efforts of tracing. Additionally, a PMF is not subject to the same critical level of quality control and testing as commercially manufactured firearms. If private citizens were to mail their PMF to a firearm manufacturer for custom cerakote work, then the marking by the manufacturer would be required according to SB 387. The manufacturer does not know if the firearm they are receiving was built to acceptable specification and with the correct collaborative parts. Their job is simply to strip it down and paint it. If, for instance, a catastrophic failure was to occur with that now aesthetically customized PMF, then the manufacturer could be open to liability. The potential for financial and reputational risk induced by marking a PMF by a manufacturer that interacted with the firearm due to happenstance is unacceptably high. This is a risk that is inevitable with SB 387.

The Industry is heavily regulated and has a long history of collaborating effectively with state and federal partners. It is an industry that is widely known to follow the rule of law and sell a product which enjoys explicit Constitutional protection. The Industry provides firearms and ammunition to the military, law enforcement, and law-abiding citizens. Additionally, it ensures access to shooting ranges for safety training. Both protections highlight the Industry’s criticality of contributing to our Nation’s security, public safety, and economic well-being. If SB 387 is implemented, it will create significant regulatory challenges, increase costs, impede production, and drive increased risk and undue burden for manufacturers, distributors, and federal firearm retailers conducting day to day business.

It is for these reasons, the National Shooting Sports Foundation opposes Senate Bill 387 and we would respectfully urge you to oppose it as well.

Sincerely,



Trevor W. Santos

² 18 USC § 923(i).

SB_327_JonCMunsonII_UNFAVORABLE.pdf

Uploaded by: Jon Munson II

Position: UNF

Jon C. Munson II
c/o 6613 Pepin Drive
Upper Marlboro, Maryland
20772-3825

240-305-7240

February 14th, 2022

Testimony of Jon C. Munson II
Maryland General Assembly
Senate Judicial Proceeding Committee

SB387 & HB425 - UNFAVORABLE

Dear Sirs/Madams:

I find it rather amazing that I must write a letter such as this to representatives such as yourselves. I am not one to usually speak up, believing that those elected would always do the right thing, in line with American values & tradition, and would seek to uphold the United States Constitution for this Union of States, in addition to the Maryland State Constitution.

However, I find, after the panel's discussion relative to SB387/HB425, that such is not the case, but seems to be rather the opposite, particularly in the case of the 2nd Amendment to the United States Constitution and the further infringement those bills seek to impose on Marylanders.

Since it is clear the body in the panel reviewing those bills is ignorant of the true meaning of the 2nd Amendment, a brief video below with a current context sheds a bit of light:

[Ukraine Military Is Training Citizens To Help Defend Against Possible Russian Invasion](#) - Mr. Colion Noir

The 2nd Amendment was not written to grant any right, it was written to guarantee a specific right, and even more particularly, keep it from being infringed. In short, the then-burgeoning Americans were subjected to arms confiscation and arms embargos by the English King, and they wanted none of that for the future Americans. They also wanted to ensure the American citizenry could equally fight back against any tyranny the public saw fit to defend against. As Phil Reboli of Gun Owners of America states, the 2nd Amendment is not about hunting, it is about parity with the government and self-defense. The amendment means what it says and says what it means.

The referenced bills quite plainly violate the 2nd Amendment.

The referenced bills not only fail text scrutiny, but also historical scrutiny – part of the strict scrutiny test that SCOTUS directed be used when contemplating such matters. For a treatise on this, see the following:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3960566 - Greenlee

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As you'll note from reading, Maryland played a significant role in the Revolutionary era. And with such actions as the Maryland General Assembly is currently contemplating (and has enacted), our Founding Fathers are likely rolling in their graves.

Further, the bill fails to accomplish what I believe to be its surface purpose which is to somehow stem the use of un-serialized weapons in the commission of crimes and fails for numerous other reasons.

To wit:

1. Laws will not deter criminal behavior. The hearts of men cannot be legislated. Those whose intent is to do harm will do so, no matter what laws or regulations are in place. This is quite clear as murder is against the law, yet this happens consistently and constantly every single day.
2. So-called "gun control" laws only negatively impact the law-abiding public, while barely impacting, if at all, crime. I believe that all the highest crime rates in the country are in areas with the strictest gun control measures, yet that has not deterred any violence. Thus, gun control laws don't factually work. A recent California study highlighted this quite dramatically:

<https://injepijournal.biomedcentral.com/articles/10.1186/s40621-021-00367-1>

This is summarized in an article by Lee Williams here:

<https://thegunwriter.substack.com/p/criminals-are-not-california-compliant>

3. The bills seek to criminalize untold numbers of Marylanders and will likely create many more "outlaw" Marylanders as mass non-compliance will probably take place.
4. The bills seek to outright ban Marylanders from doing what is a traditional American activity and right. And if it weren't for that ability and right, we'd all still be subjects of England today.
5. The bills will not stop the alleged flow of any arms given that Frosh has admitted (in the Judiciary Committee hearing on HB425) arms come from outside Maryland. Clearly the previous legislation hasn't really deterred that as crime has continued to rise.
6. The bills seek to blame the tool for the State's inability to reduce crime through tough prosecution and socially responsible measures that don't infringe on people's rights. If a Ford Explorer were used in numerous hit-and-run murders, would we ban the car? Since knives are used to commit crimes, do we ban knives? Given stones, and sticks, can kill,

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do we ban them? As hands are used to cause bodily harm to others, do we ban our hands? Do we ban the pen that caused soldiers to die? No, we do not. We, instead, hold the executor of the crime responsible, not the tool that was used. This is common sense.

7. It seems that Baltimore is being made “the poster child” for this legislation – did anyone think to ask how Baltimore compares to the rest of the state? The Baltimore Police Chief couldn’t produce any statistics at the time of the panel – which is telling.
8. Frosh asked (in the Judiciary Committee hearing on HB425) why anyone would want to have an un-serialized weapon. Did anyone think to ask why the government would need to be party to one’s private doings absent evidence of any criminal activity? We are supposed to be safe in our effects and papers, and property is supposed to be our own. Did anyone think to mention that building weapons for one’s own purposes has been a right since before this country was founded? Did anyone think to mention that transferring any non-serialized weapon to another is already a crime?
9. I’m sure serializing one’s own work would be happily carried out by law-abiding citizens. However, that will not stop the issue Frosh claims as the root of this measure, since, as he admits (in the Judiciary Committee hearing on HB425), these arms are coming from out-of-state. Thus, once again, law-abiding Marylanders will be punished/criminalized for no good reason.
10. The bills will likely fail a SCOTUS challenge since they plainly fail the test used to judge the Constitutionality of the bill.
11. Government decreed serialization of arms means only one thing: government wishes to know who has those arms for purposes of tracking for later, likely, prosecutorial/punitive measures that have nothing to do with tracing. Serialization leads to a registration, which begets a registry, which in the case of firearms, leads to confiscation/prosecution. This is not the behavior of a “free” country, and certainly not the intention of the Founding Fathers for the Union. As proof, the ATF has amassed nearly 1,000,000,000 gun ownership records:

<https://www.youtube.com/watch?v=LG4N34cBQTE> - Phil Reboli, Gun Owners of America

Most of those records have already been digitized, which makes them easily searchable. In effect, this is becoming a de facto National Gun Registry, which is prohibited by law. Yet, it is being done.

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Serial numbers are only useful to provide, if even possible, a record of ownership. Criminals have been removing/obliterating serial numbers for decades – that's not going to stop and has probably been improved.

The following is testimony submitted by Ashley Hlebinsky on the subject of privately made firearms and serialization:

<https://www.judiciary.senate.gov/imo/media/doc/Ashley%20Hlebinsky%20Written%20Testimony%20Final.pdf>

12. Senator Chuck Grassley sent a letter yesterday to the Department of Justice which touches on the subject at hand. A pertinent quote from the letter:

“The fact sheet also discusses the launch of a National Ghost Gun Enforcement Initiative. It references the 325 homicides or attempted homicides connected to ghost guns recovered by the ATF between 2016 and 2020.⁶ According to the FBI, there were 89,076 homicides in that time,⁷ to say nothing of the number of attempted murders. Therefore, less than 0.36% of homicides involved these ghost guns. Stating the number of homicides committed by ghost guns without accounting for the total number of homicides in the given time period is grossly misleading. Law enforcement should be focusing on the increase of murders, the overwhelming majority of which do not involve ghost guns.

The DOJ is also planning “a new initiative to enhance communication with federal firearms licensees (FFLs).”⁸ ATF will now notify an FFL if a firearm purchased from them was used in a violent crime. As I have stated before, violent criminals should be punished, and anyone who knowingly assists them in unlawfully purchasing a firearm should be held accountable. However, your agency found that only 7% of firearms used in a crime are acquired from legal firearm dealers, compared to the 56% which are stolen or purchased in the black market.⁹ There is no data suggesting that legal firearm dealers are responsible for any significant increase in crime.”

https://www.grassley.senate.gov/imo/media/doc/grassley_to_justice_dept.guncrimeinitiative.pdf

As you can see, the efforts outlined in this bill would be a substantial waste of resources and time, and will ultimately accomplish very little, if anything at all.

13. Guns save far more lives, and prevent more crimes, than are taken or committed.

<https://fee.org/articles/guns-prevent-thousands-of-crimes-every-day-research-show/>

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For more on these bills' failures, see Mr. Mark Pennak's testimony, here:

<https://www.marylandshallissue.org/jmain/legislation-tracker/279-mdga22-testimony-in-opposition-to-hb425-and-sb387-public-safety-untraceable-firearms>

In conclusion, not only do these bills clearly fail any rightful Constitutional test, they are poor attempts to lay blame at the feet of a tool for the failures of the State to more properly handle the underlying issues that lead to criminal activity. There can be only one reason for the State to seek to act as it proposes, and that is to further some agenda to keep its citizens foreclosed from exercising their natural rights to self-defense.

I leave you with this quote:

"Those who give up essential liberty for perceived safety deserve neither liberty nor safety." - Benjamin Franklin

I firmly OPPOSE this proposed legislation and hereby tender my UNFAVORABLE opinion.

Sincerely,

//s// Jon C. Munson II

Letter to MD Senate.pdf

Uploaded by: JOSHUA BAILEY

Position: UNF

To the members of the Maryland Senate:

As lifelong resident of Baltimore City, having graduated from Baltimore City Public Schools, with family roots in our state going back to the 17th century, I must speak up in opposition to this deeply-flawed legislation.

Murder is a felony, armed robbery is a felony, being a prohibited possessor is also a felony. Concealed carry without a permit (that is impossible for the overwhelming majority of Marylanders to obtain) is a misdemeanor gun crime that bars the convicted from gun ownership for life. Citing the example used by AG Frosh, building dozens of Polymer80 receivers with the intent to sell is being in the business of selling firearms without a Federal Firearms License, which is also a felony at the federal level. Simply put, these are all already crimes.

If this were a law criminalizing possession of an unserialized firearm *while in commission of a crime*, it would fulfill the claimed public safety intent of the bill and likely draw little opposition from gun owners, myself included, however this is not the case.

Rather, this law will render thousands of Marylanders into felons for hobbyist gunsmithing that has been legal since before Maryland was a state, even those persons without any otherwise criminal intent.

This bill will do nothing to address violent crime here – homemade firearms are but a small minority of firearms seized in Baltimore, and this law will be ignored by those doing the shooting as the handgun permit requirements have been since 2013. I have been robbed at gunpoint working in the city more than once, in fact mostly after the 2013 legislation passed, and each time it has been a commercially-built, stolen firearm, not a model of the type built from a 3D print or 80% receiver.

Our city's decades-long crime epidemic is the result of endemic poverty, the lack of economic and educational opportunities in the city, and the ongoing War on Drugs against our communities. The latter could be partially alleviated with progressive legislators' veto-proof majority as other states have done but this has paradoxically been ignored in favor of feel-good bills such as the one proposed.

Guns – overwhelmingly stolen, commercially-built guns – will continue to flow into economically distressed parts of our state as long as those dire socioeconomic realities remain.

If this were a public safety bill and not a bill to criminalize all hobbyist gunsmiths, it would offer a legal process for hobbyists to continue to build and serialize their firearms as other states do, but it does not and the true intent of the bill remains clear.

In conclusion, and to reiterate, in no way can I as a private citizen support this bill as written.

-Joshua Bailey

Testimony SB 0387_HB 0425 Untraceable Firearms.pd

Uploaded by: Karla Mooney

Position: UNF

SB 0387/ HB 0425 Untraceable Firearms

As written this bill does not affect the criminal who may have or may choose to steal a gun that does not have a serial number on it. The number of crimes involving unregistered firearms is a small percentage of all crimes violent or otherwise where firearms were used in the State of Maryland. This is legislation that once again targets the gun hobbyist to make them a criminal instead of addressing the issue of robbery, murder, or felony assault with a firearm. Adjudicating the criminal for the crimes they commit will solve the issues our state has, not enacting more gun laws that only inhibit law abiding citizens from self-protection. I have added below examples for you that come from the research Maryland Shall Issue has done.

Please find an unfavorable Report for this bill.

Karla Mooney

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Leonardtown, MD 20650
Resident of District 29C
Multi-discipline Firearms Instructor/ Maryland QHIC
Maryland State Director for the DC Project
Maryland State Leader for the Armed Women of America (formerly TAWW Shooting Chapters)
MSI Member

A. Privately Manufactured Firearms Are Rarely Used In Crime And Existing Owners Are Law-Abiding Hobbyists, Not Criminals

These new provisions, if enacted, would burden and penalize an activity that has been perfectly legal under federal and state law for the entire history of the United States, *viz.*, the manufacture of homemade guns for personal use. Under Federal law, a person may legally manufacture a firearm for his own personal use. See 18 U.S.C. § 922(a). However, “it is illegal to transfer such weapons in any way.” *Defense Distributed v. United States*, 838 F.3d 451, 454 (5th Cir. 2016). This manufacture typically “involves starting with an ‘80% lower receiver,’ which is simply an unfinished piece of metal that looks quite a bit like a lower receiver but is not legally considered one and may therefore be bought and sold freely. It requires additional milling and other work to turn into a functional lower receiver.” (Id).

Manufacturing a typical “80% lower” into a “functional lower receiver” is not a trivial process. It takes tools, expertise and hours of time. Miscues are common and, when made, essentially convert the “80% lower” into scrap. Individuals who undertake this process are hobbyists. Even after the receiver is successfully made, the owner would still have to purchase the additional parts, such as a barrel, the trigger, slide and all the internal parts to complete the assembly. All

these additional parts are expensive. With the cost of the tools to mill the receiver, plus the cost of the parts, a final assembled homemade gun may cost **more to make than** it would to actually buy an identical gun from a dealer.

The complexity of this process has been pointed out in court filings by the ATF and the U.S. Department of Justice. For example, in *State of California v. BATF*, No. 20-cv-0761 (N.D. Cal.), the Department of Justice and the ATF explained:

An unfinished receiver that has not yet had “machining of any kind performed in the area of the trigger/hammer (fire-control) recess (or cavity),” see ATF Firearms Technology Branch Technical Bulletin 14-01 (“Bulletin 14-01”), filed in *Calif. Rifle and Pistol Ass’n v. ATF*, Case No. 1:14-cv-01211, ECF No. 24 at 285 (E.D. Cal. Jan. 9, 2015), requires that numerous steps be performed simply to yield a receiver, that then in turn must be assembled with other parts into a device that can expel a projectile by the action of an explosive. These milling and metalworking steps—each of which require skills, tools, and time—include: 1) “milling out of fire-control cavity”; 2) “drilling of selector-lever hole”; 3) “cutting of trigger slot”; 4) “drilling of trigger pin hole; and 5) “drilling of hammer pin hole.” Compl. Ex. 9. Importantly, ATF will treat any “indexing”—the inclusion, in the receiver blank, of visual or physical indicators regarding the two-dimensional or three-dimensional parameters of the machining that must be conducted—as rendering the receiver blank a firearm. See Compl. Ex. 12; Ex. 13; Shawn J. Nelson, *Unfinished Lower Receivers*, 63 U.S. Attorney’s Bulletin No. 6 at 44-49 (Nov. 2015) (“Nelson, Unfinished Receivers”), available at: <https://go.usa.gov/x7pP3>. This prevents the makers of receiver blanks from annotating the blank to instruct the purchaser as to the precise measurements needed, in three dimensions, to “excavate the fire control cavity and drill the holes for the selector pin, the trigger pin, and the hammer pin.” Nelson, *Unfinished Receivers*, at 47. The need to conduct these machining steps from scratch, without indexing, and “carefully” means a working gun cannot be produced “without difficulty.” *Id.* And the work to excavate the cavities and drill holes in a solid, unmachined substrate requires care rather than speed to avoid doing so raggedly or in the wrong area. See *id.* Therefore, the receiver cannot be completed “without delay,” even leaving aside the further assembly with many other parts needed to have a weapon that can expel a bullet by explosive action. A receiver blank therefore may not “readily be converted” into a firearm.

Federal Defendants’ Notice Of Motion And Motion To Dismiss Plaintiffs’ Complaint For Declaratory And Injunctive Relief, at 16-17 (filed Nov. 30, 2020).

There has been much ado made about “kits” that are available from manufacturers, such as Polymer 80 and others. Accordingly to the ATF, such “kits” are made by non-licensed manufacturers “who manufacture partially complete, disassembled, or inoperable frame or receiver kits, to include both firearm parts kits that allow a person to make only a frame or receiver, and those kits that allow a person to make a complete weapon.” 86 Fed. Reg. at 27736. Several points bear mentioning.

First, most (if not all) of the unserialized “ghost guns” recovered by the police in Maryland are made from such kits. Indeed, the Baltimore Police Department has announced to great fanfare that ghost gun seizures have increased over the last few years. Yet, according to information we have obtained from the Baltimore Police Department, the BPD seized 2,355 guns in 2021. Of that number, according to the BPD, 352 were “ghost guns,” including guns made from kits (Polymer 80s). That is slightly less than **15%** of the total number of guns seized in 2021. Baltimore’s problem with illegal guns is thus far vaster than “ghost guns.” The BPD does not identify separately the number ghost guns actually used in violent crimes and there are few statistics available on the number of ghost guns actually used in crime. What numbers that are available suggest that the use of ghost guns in violent crime is minute. For example, “the Justice Department reported that more than 23,000 weapons without serial numbers were seized by law enforcement between 2016 and 2020 and were linked to 325 homicides or attempted homicides.” <https://bit.ly/3GgaT94>. That 325 homicides or attempted homicides represent a tiny percentage of the universe of 23,000 ghost guns seized (0.14%).

Legislation, such as these bills, focusing on “ghost guns” thus will not make the slightest dent in the soaring homicide rate. The numbers in Baltimore bear that out. For example, in 2011, the BPD seized 2,178 firearms (no ghost guns) and the number of murders was 196, of which 88 resulted in arrests (a 44.9% clearance rate). In 2011 there were also 379 non-fatal shootings. In 2020, the BPD seized roughly the **same number** of guns (2,244) (including 128 ghost guns), and yet the number of murders was 335 of which only 102 resulted in arrests (a 28.7% arrest clearance rate). And by 2020, the number of non-fatal shootings had nearly doubled from 2011 to 724. Similarly, BPD’s weapons possession arrests were 1,224 in 2011, but virtually the same in 2020 (1,233), but the number of murders in 2020 were **81.1%** higher than in 2011.

We note with sadness that Baltimore is headed for a new record in homicides with 36 killings in January 2022, a pace that would result in 432 murders for 2022, a number never seen in Baltimore before. <https://bit.ly/3KYQzN1>. No word

from the BPD if any of these killings came from the use of “ghost guns.” The BPD has not released murder arrest numbers for 2021, but we are informed that there were 337 homicides in 2021, 2,355 gun seizures and 726 non-fatal shootings, numbers not much different than 2020. We note that in the years between 2011 and 2021, the General Assembly enacted numerous gun control statutes, including the much-touted Firearms Safety Act of 2013. None of those laws had the slightest impact on crime in Baltimore.

At a minimum, it should be obvious that there is no correlation (much less cause and effect) between guns seized and violent crime. A more relevant statistic is the clearance rate for serious crimes. As noted above, BPD’s arrest clearance rate for murder in 2020 was a merely 28.7% and only 44.9% in 2011. By comparison, the nationwide clearance rate for murder is 54.4%. <https://bit.ly/3s3qiVb>. Baltimore’s clearance rate for homicides is plainly abysmal, a reality that does not go unnoticed by violent criminals and law-abiding citizens alike. See Johns Hopkins Center for Gun Policy and Research, *Reducing Violence And Building Trust* at 5 (June 2020) (“In Baltimore neighborhoods most impacted by gun violence, residents lack faith in BPD’s ability to bring individuals who commit violence to justice. Perceived risk of being shot and perceptions that illegal gun carrying is likely to go unpunished lead some residents to view gun carrying as a necessary means for self-defense.”). In any event, there is no evidence of which we are aware that the inability to trace an unserialized firearm actually has prevented an arrest for any serious violent crime. The General Assembly seriously errs in focusing on “ghost guns” when it should be paying attention to the soaring rate of violent crime.

Second, the proposed regulations issued by the ATF would effectively ban unserialized kits by reclassifying them as “firearms” for purposes of federal law. That reclassification of kits would mean that the frame or receiver of the kit would be required to be serialized (and sold through FFLs like other firearms). Specifically, under the proposed rule, “weapon parts kits with partially complete frames or receivers containing the necessary parts such that they may readily be completed, assembled, converted, or restored to expel a projectile by the action of an explosive would be “firearms” for which each frame or receiver of the weapon, as defined under this rule, would need to be marked.” (86 Fed. Reg. at 27736). After the proposed rule goes into effect in June of 2022, such **unserialized** kits will thus be completely unavailable commercially. Likewise unavailable would be any “readily be converted” unfinished frames or receivers, as the ATF proposed rule would likewise deem such items to be firearms and thus must be serialized in order to be sold legally and only then through FFLs who would perform background checks for these items, just like for any other

type of firearm. The only unserialized receivers that would remain unregulated by the ATF would be those receivers that are NOT “readily” converted or assembled into a completed receiver, such as blocks of aluminum sold as “zero percent” receivers and that number is vastly smaller than the current universe of “ghost guns.” As noted, the ATF proposed regulations heavily tighten the definition of “readily” converted, thereby **further** limiting the number and availability of these remaining types of unfinished receivers.

B. The Bills Would Do Nothing To Prevent Or Deter Criminals From Acquiring Guns While Criminalizing Existing, Law-Abiding Hobbyists

The ATF proposed rule would ban unserialized “kits” and would dry up the market for unserialized receivers. Period, full stop. Yet, ironically, the bans imposed by these bills would not stop any person from actually acquiring any non-regulated receivers that would be left, such as “zero percent receivers.” Such items would still not be “firearms” under federal law and thus would not be regulated by federal law. Such items thus would remain available all over the United States, even if the bills should become law and were perfectly enforced 100% of the time. The market for these items is nationwide in scope. Accordingly, nothing in the bans imposed by these bills would or could actually stop any criminal or disqualified person from acquiring all the hardware necessary to make his own gun. All such a person would need do is drive to another state and buy over the counter. The idea that these bills would prevent crime or acquisition of a “ghost gun” is thus fantasy.

More importantly, a disqualified person would not be deterred by these bills because such a disqualified person is **already** precluded by federal law from possessing **any** modern firearm or modern ammunition of **any** type. 18 U.S.C. § 922(g). Actual or constructive possession of a modern firearm or ammunition by a person subject to this firearms disability is a felony, punishable by up to **10** years imprisonment under federal law. See 18 U.S.C. § 924(a)(2). The same disqualification and similar punishments are also **already** imposed under existing Maryland law. See MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). Simple actual or constructive possession of a receiver **alone** (as further defined by the ATF rule) would be sufficient to constitute a violation of these existing laws, as a receiver **alone** is considered a “firearm” under **existing** Maryland and federal law. See 18 U.S.C. § 921(a)(3); MD Code, Public Safety, § 5-101(h)(1)(ii). These bills would not change that reality an iota. See <https://bit.ly/3rgG9Au> (announcing arrests and prosecutions of violent criminals and illegal gun manufacturers in Cecil County).

These bills go beyond the requirements of federal law and the proposed ATF regulations by making possession of existing privately manufactured firearms illegal. That result simply criminalizes innocent, law-abiding hobbyists and gun owners who have done nothing wrong. Existing criminals in possession of a “ghost gun” can be and should be arrested for illegal possession and the existing punishments for such illegal possession are far harsher than those imposed by these bills. These bills will not change that legal reality. Yet, these bills will also result in the arrest of law-abiding hobbyists. The reality is that few existing, otherwise law-abiding owners of these homemade guns will know or realize that possession of their existing firearms or unfinished frames has been banned. Actual compliance by existing owners will thus likely be virtually non-existent. In short, the bills are utterly **pointless** as a public safety measure. They would succeed only in turning otherwise law-abiding citizens into criminals. That is not sound public policy.

Katie_Novotny_UNF_SB387.pdf

Uploaded by: Katie Novotny

Position: UNF

Written Testimony of Katie Novotny in opposition of SB387

15 February 2022

I am a member of multiple gun rights organizations. I am a certified Range Safety Officer. I compete in multiple shooting events. I am an avid firearms collector. I oppose SB387.

It has been legal to manufacture firearms for personal use for the entire history of this country. There are already numerous federal laws regarding these firearms. It is already illegal, federally, for a prohibited person to possess or manufacture a firearm. It is also already illegal to manufacture a firearm that is undetectable by a metal detector. (<https://www.atf.gov/firearms/ga/firearm-illegal-if-it-made-plastic>) What is the purpose of making these doubly illegal? Criminals have already proven they are able to obtain firearms in spite of the Firearms Safety Act of 2013 and every law passed before and since that bill went into effect. This bill will only affect hobbyists who manufacture firearms for their own enjoyment.

This bill follows the same scorched earth approach that the FSA2013 does, and it will have the exact same effect on crime as that law. None. Past versions of this bill had started to recognize that people legitimately manufacture homemade firearms as a hobby. Why the departure from that approach? I see no reason other than the participation of our Attorney General. It is disappointing to see so much effort at creating a workable bill pushed aside for political reasons.

The ATF proposed rule would already cover a lot of ground that Maryland seeks to regulate. It will likely ban 80% firearms sold in kits, that is with everything needed to complete a firearm, and regulate many other aspects. Rather than trying to force through draconian regulations at the state level that come with extremely harsh criminal penalties, why not allow the federal rules to take effect, and go from there? Regarding those penalties, in a time when a significant amount of time and energy has gone into decriminalizing actions that don't affect others, this bill carries a penalty of 3 years/\$10,000 for each violation. There is also no mens rea requirement. So a person who had no idea this law was going into effect can be caught with 3 unserialized firearms that were perfectly legal to own up until this point, and receive 9 years in prison and a \$30,000 dollar fine. Meanwhile no violence has occurred, no criminal activity other than owning what had always been legal to own. That is outrageous.

Getting into the meat of the bill, there are requirements that simply make this bill incredibly difficult to comply with. Regarding the engraving required, to follow federal laws, the letters must be 1/16 of an inch tall and engraved to a depth of .003 inches. This bill requires that an FFL perform that work. Only certain types of FFL's are allowed to perform that work: manufacturers and Importers. There are a limited number of those within the state of Maryland, and there is no requirement that they even perform the task of engraving. They may refuse to engrave serial numbers on firearms that they did not manufacture. They are also free to charge whatever they like. There is no provision for those who have already engraved a serial number on a homemade firearm and have registered it with the ATF or the

MSP. If it does not meet the specific requirements of the serial number or engraver as provided by this bill, they are criminals.

In 2019, the ATF reports that 9,465 firearms were recovered and traced in Maryland. This does not include any firearms that were not traced. <https://www.atf.gov/file/147101/download> That same year, 117 “ghost guns” were recovered. <https://www.baltimoremagazine.com/section/community/iron-pipeline-gun-violence-out-of-state-traffickers/> This is a very small percentage. This also does not differentiate between homemade firearms or those which have had their serial number removed. So yes, criminals are getting their hands on these items, just as they do any other item they wish to possess. Gun tracing also only gives limited information. A firearm may be linked to the state it was sold in when new, but how it ended up in a seizure, often many years later, is often a mystery. The ATF was even unable to trace their own guns from Operation Fast and Furious, and all of those firearms had serial numbers that the ATF knew and had record of.

It has been reported that more than 12,000 build kits have been shipped to Maryland between 2016 and 2019. That doesn't account for homemade firearms made by other means, so the numbers present in Maryland is certainly significantly higher. In my opinion, that puts these firearms in the category of commonly owned. They are not overwhelmingly used in crime, and a majority are used for lawful purposes.

This is yet another bill introduced under the flag of reducing crime. Ultimately it will be incredibly burdensome to hobbyists and law-abiding citizens participating in innocent behavior, while doing nothing to curb the violence that has been plaguing our communities. If passed into law, it will never be revisited to measure its effectiveness. It will never be amended or repealed when it is found to be completely ineffective. Instead, the law-abiding firearms community will take the punishment for crimes they have not committed. The violence we all wish to stop needs reform that goes much deeper than this. Hard choices need to be made to fix the generations of mistrust. Laws like this are what gave us Baltimore's Gun Trace Task Force, and it is clear how poorly that worked out.

Finally, this is a bill that criminals simply will ignore. How will this be enforced? How will you force criminals to engrave a receiver? Bottom line is they will continue to ignore yet another law, and lawful gun owners will continue to be blamed for the crimes of others.

Because of these reasons above, I request an unfavorable report.

Katherine Novotny
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SB387 Testimony 2022.pdf

Uploaded by: Kenneth Gross

Position: UNF

SB 387: Public Safety - Untraceable Firearms

Name: Kenneth C. Gross

Position: OPPOSE

Privately built firearms are rarely used in crime; existing owners are law-abiding hobbyists not criminals. Thus, this is a feel-good Bill that does not address the real problem of firearm-related violence in Maryland, which is the lack of enforcement of existing code to prosecute violent offenders.

SB 387 imposes heavy-handed and impractical requirements for gun hobbyists and gun owners exercising their 2nd Amendment rights. The requirements banning possession go far beyond federal law. They severely criminalize (3-year imprisonment) innocent possession by law-abiding hobbyists who may have built these firearms or possessed these frames for years, including all privately made guns built over the last 5 decades.

The bill creates a new overly broad definition of a "firearm" that goes beyond any federal definition of "firearm." That definition would be far stricter than any definition of firearm that would be imposed by the proposed ATF rule. It could include a simple block of metal, such as aluminum. SB 387 imposes strict criminal liability for mere innocent possession of such common material.

SB387_Lydia_DeTello.pdf

Uploaded by: Lydia DeTello

Position: UNF

Lydia DeTello

SB387 Public Safety – Untraceable Firearms

Unfavorable

2/16/2022

My name is Lydia DeTello, I am an Executive Assistant, an artist, and a Marylander, born and raised. I have lived and worked in this state my entire life. I am currently registered as a Democrat, and I vote in ways that I believe will affect community change and protect the rights of working-class Marylanders. My priorities include social justice, limiting abuse of police power, racial equality, LGBT rights, and women's rights. I am also a firm believer in gun rights for all, and I am firmly against laws punishing victimless crimes. For those reasons I urge an unfavorable report of Senate Bill 387.

Bills like these criminalize otherwise innocent people. Over the past few years, gun ownership in Maryland has increased drastically. I myself know of people of various walks of life who have recently become gun owners, some I would not have expected to do so. I can tell you certainly that this is not a strictly partisan issue. I know of many people who lean staunchly left that support the right to gun ownership, and I know people in minority groups, who have chosen to arm themselves, some for the first time. For me, it is absolutely critical that citizens have the option to arm themselves as they feel necessary. For defense, as a hobby, for peace of mind, or simply to learn how to responsibly handle a firearm.

I would argue that there are people in this state who commit violent acts with guns especially in our great city of Baltimore. That is absolutely apparent and tragic. But this bill does absolutely nothing to put people in jail for violent crime, instead this bill targets your constituents who have chosen to arm themselves lawfully. For me personally, this bill is far more likely to put myself or my family in prison simply for owning an object. Not for using it inappropriately, but simply for possessing it. The same issue applies to any of your constituents who have chosen to arm themselves in this way. Not only does it punish for a victimless crime, it punishes heavy handedly, and indiscriminately. Three years and/or a fine of up to \$10,000 per firearm that is not in compliance with this rule is an obscenely cruel punishment for again, a completely non violent crime. In comparison, theft of a handgun is only 30 days in jail.

I wonder about the wasted efforts of creating this bill and mourn the potential. Why are we focusing again on policing working class Americans for owning something they have every right to own, throwing them in jail for possession, nothing else? We have plenty of Marylanders in jail, and by that I of course mean too many. Supposedly many representatives on both sides of the aisle wish to reduce crime. I can think of untold ways to do this, supporting communities, providing equal opportunities, raising

wages, supporting small business, etc. I would support and greatly appreciate efforts to improve any of these issues, however this bill does not focus on any of that. Instead it puts many constituents at risk of being imprisoned for ownership of an item. It puts people in jail indiscriminate of whether they have used a firearm in an inappropriate or violent way. It will throw your responsibly armed constituents in prison for 3 years and \$10,000 per firearm. I can't imagine how a punishment like this would ruin someone's life if they were prosecuted for owning just one item, let alone multiple.

To conclude, I believe this law is much more likely to fill our prisons with innocent people, potentially myself or my family, than it would be to address the actual real issue of violent crime. It will be enforced unfairly and most likely be used as a tool to police the working class. It penalizes responsible, gunowners of all walks of life.

For these reasons I strongly urge you to vote unfavorably on Senate Bill 387.

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MSI Testimony on HB 425 and SB 387 Final.final.pdf

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February 7, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO HB 425 and SB 387

I am the President 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. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of Maryland and of the Bar of the District of Columbia. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. 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 instructor in rifle, pistol, personal protection in the home, personal protection outside the home and in muzzle-loader. I appear today as President of MSI in opposition to HB 425 and SB 387.

The Bills and Framework of State and Federal Law

The bills would create a massive new gun ban on the possession, receipt, sale, transfer or purchase of un-serialized unfinished receivers and frames. The bills provide that “person may not **purchase, receive, sell, offer to sell, or transfer** an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms.” This ban would go into effect on June 1, 2022. Next, the bills ban mere **possession of** an unserialized, privately made firearm on or after January 1, 2023. To be lawfully kept after January 1, 2023, all unfinished frames and receivers would have to be serialized as the bills describe. The mere possession of any unserialized item considered to be a firearm is a criminal offense as of 1/1/2023.

The bills create a very broad and new definition of "firearm" to make clear that unfinished receivers will now be considered to be a “firearm.” Specifically, the bills define "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that (1) Has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm; or (2) Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted." In this respect, the bills go far beyond the definition of a firearm set forth in federal law. Under federal law, 18 U.S.C. 921(a)(3), a firearm is defined as “(A) any weapon (including a starter gun) which will or is designed to

or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.”

A similar definition is set forth in current Maryland law. See Md. Code Public Safety, 5-101(h). These bills would amend Section 5-101(h) to include as well an “unfinished frame or receiver” and then define an “unfinished frame or receiver” to mean “a forged, cast, printed, extruded, or machined body or similar article that: * * * (2) Is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.” Under this definition, a “zero percent” receiver (a solid block of aluminum, for example) would fall under the bills’ coverage if it is sold or marketed as such. The bills do not even attempt to define the meaning of “readily completed, assembled or converted.” Nothing in the bills purport to incorporate federal law in this definition.

Notwithstanding the bills’ new and radically different definition of a “firearm,” the bills otherwise piggyback heavily on federal law. For example, the ban on an unfinished frame or receiver in new Section 5-703(a) applies to all such items “unless it is required by federal law to be, and has been imprinted with a serial number by a federally licensed firearms manufacturer, or federally licensed firearms importer in compliance with all federal laws and regulations....” Similarly, for existing privately made firearms, the bills require that, before January 1, 2023, a federally licensed dealer, importer, manufacturer, or other federal licensee authorized by federal law to “provide marking services” mark firearms with a serial number that consists of the first three and last five digits of their FFL number, plus “another number,” presumably one selected by the federally licensed manufacturer or importer.

The bills require that the inscriptions be in compliance with the federal rules that define depth, height, and method. Specifically, federally licensed manufacturers and importers are required to engrave serial numbers on firearms. See 18 U.S.C. § 923(i). Federal regulations concerning Section 923(i) (also incorporated by the bills) require that the markings required by Section 923(i) must be to a minimum depth of .003 inches and in a print size no smaller than 1/16 inches and “must be placed in a manner not susceptible of being readily obliterated, altered, or removed.” 27 C.F.R. § 478.92(a)(1). That process requires a precise and expensive engraving machine. The bills do not require that any federally licensee actually perform this service and the bills likewise do not purport to limit the fees that potential engravers are able to charge. A violation of any of these requirements is punishable by up to 3 years in prison and/or a \$10,000 fine for each violation as each violation is deemed by these bills to be a “separate crime.”

Finally, it must be noted that pending regulations issued by the ATF propose to change how the ATF defines a firearm within the definition established by 18 U.S.C. § 921(a)(3)(providing: “The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.”). The notice of proposed rulemaking for these ATF regulations was issued on May 21, 2021. See 86 Fed. Reg. 27720-01 (May 21, 2021). As proposed, the ATF rule would define unfinished receiver “kits” to fall within the federal definition of a “firearm.” See 86 Fed. Reg. at 27726. The proposed rule would also define “readily be converted” under Section 921(a)(3) to mean “a process that is fairly or reasonably efficient, quick, and easy, but not necessarily

the most efficient, speedy, or easy process.” (Id. at 27730). The regulations would then list a number of factors to be considered in applying that definition, including cost and difficulty of conversion or assembly. Unlike these bills, nothing in those regulations would purport to reach any “unfinished receiver” that is “marketed or sold to the public to become or be used” as a receiver. Nothing in these proposed regulations would purport to bar private persons from manufacturing their own privately made firearms or otherwise prohibit the possession of such firearms manufactured in the past. These federal regulations are expected to issue in final no later than June of 2022. See *Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2021*, 87 Fed. Reg. at 5111 (January 31, 2022).

A. Privately Manufactured Firearms Are Rarely Used In Crime And Existing Owners Are Law-Abiding Hobbyists, Not Criminals

These new provisions, if enacted, would burden and penalize an activity that has been perfectly legal under federal and state law for the entire history of the United States, *viz.*, the manufacture of homemade guns for personal use. Under Federal law, a person may legally manufacture a firearm for his own personal use. See 18 U.S.C. § 922(a). However, “it is illegal to transfer such weapons in any way.” *Defense Distributed v. United States*, 838 F.3d 451, 454 (5th Cir. 2016). This manufacture typically “involves starting with an ‘80% lower receiver,’ which is simply an unfinished piece of metal that looks quite a bit like a lower receiver but is not legally considered one and may therefore be bought and sold freely. It requires additional milling and other work to turn into a functional lower receiver.” (Id.).

Manufacturing a typical “80% lower” into a “functional lower receiver” is not a trivial process. It takes tools, expertise and hours of time. Miscues are common and, when made, essentially convert the “80% lower” into scrap. Individuals who undertake this process are hobbyists. Even after the receiver is successfully made, the owner would still have to purchase the additional parts, such as a barrel, the trigger, slide and all the internal parts to complete the assembly. All these additional parts are expensive. With the cost of the tools to mill the receiver, plus the cost of the parts, a final assembled homemade gun may cost **more to make than** it would to actually buy an identical gun from a dealer.

The complexity of this process has been pointed out in court filings by the ATF and the U.S. Department of Justice. For example, in *State of California v. BATF*, No. 20-cv-0761 (N.D. Cal.), the Department of Justice and the ATF explained:

An unfinished receiver that has not yet had “machining of any kind performed in the area of the trigger/hammer (fire-control) recess (or cavity),” see ATF Firearms Technology Branch Technical Bulletin 14-01 (“Bulletin 14-01”), filed in *Calif. Rifle and Pistol Ass’n v. ATF*, Case No. 1:14-cv-01211, ECF No. 24 at 285 (E.D. Cal. Jan. 9, 2015), requires that numerous steps be performed simply to yield a receiver, that then in turn must be assembled with other parts into a device that can expel a projectile by the action of an explosive. These milling and metalworking steps—each of which require skills, tools, and time—include: 1) “milling out of fire-control cavity”; 2) “drilling of selector-lever hole”; 3) “cutting of trigger slot”; 4) “drilling of trigger pin hole; and 5) “drilling of hammer pin hole.” Compl. Ex. 9. Importantly, ATF will treat any “indexing”—the inclusion, in the receiver blank, of visual or physical indicators regarding the two-dimensional or three-dimensional parameters of the machining that must be conducted—as rendering the receiver blank a firearm. See Compl. Ex.

12; Ex. 13; Shawn J. Nelson, Unfinished Lower Receivers, 63 U.S. Attorney's Bulletin No. 6 at 44-49 (Nov. 2015) ("Nelson, Unfinished Receivers"), available at: <https://go.usa.gov/x7pP3>. This prevents the makers of receiver blanks from annotating the blank to instruct the purchaser as to the precise measurements needed, in three dimensions, to "excavate the fire control cavity and drill the holes for the selector pin, the trigger pin, and the hammer pin." Nelson, Unfinished Receivers, at 47. The need to conduct these machining steps from scratch, without indexing, and "carefully" means a working gun cannot be produced "without difficulty." *Id.* And the work to excavate the cavities and drill holes in a solid, unmachined substrate requires care rather than speed to avoid doing so raggedly or in the wrong area. See *id.* Therefore, the receiver cannot be completed "without delay," even leaving aside the further assembly with many other parts needed to have a weapon that can expel a bullet by explosive action. A receiver blank therefore may not "readily be converted" into a firearm.

Federal Defendants' Notice Of Motion And Motion To Dismiss Plaintiffs' Complaint For Declaratory And Injunctive Relief, at 16-17 (filed Nov. 30, 2020).

There has been much ado made about "kits" that are available from manufacturers, such as Polymer 80 and others. Accordingly to the ATF, such "kits" are made by non-licensed manufacturers "who manufacture partially complete, disassembled, or inoperable frame or receiver kits, to include both firearm parts kits that allow a person to make only a frame or receiver, and those kits that allow a person to make a complete weapon." 86 Fed. Reg. at 27736. Several points bear mentioning. Kits are thus designed to be easier to complete.

First, most (if not all) of the unserialized "ghost guns" recovered by the police in Maryland are made from such kits. Indeed, the Baltimore Police Department has announced to great fanfare that ghost gun seizures have increased over the last few years. Yet, according to information we have obtained from the Baltimore Police Department, the BPD seized 2,355 guns in 2021. Of that number, according to the BPD, 352 were "ghost guns," including guns made from kits (Polymer 80s). That is slightly less than **15%** of the total number of guns seized in 2021. Baltimore's problem with illegal guns is thus far vaster than "ghost guns." The BPD does not identify separately the number ghost guns actually used in violent crimes and there are few statistics available on the number of ghost guns actually used in crime. What numbers that are available suggest that the use of ghost guns in violent crime is extremely rare. For example, "the Justice Department reported that more than 23,000 weapons without serial numbers were seized by law enforcement between 2016 and 2020 and were linked to 325 homicides or attempted homicides." <https://bit.ly/3GgaT94>. That 325 homicides or attempted homicides represent a tiny percentage of the universe of 23,000 ghost guns seized (0.14%).

Legislation, such as these bills, focusing on "ghost guns" thus will not make the slightest dent in the soaring homicide rate. The numbers in Baltimore bear that out. For example, in 2011, the BPD seized 2,178 firearms (no ghost guns) and the number of murders was 196, of which 88 resulted in arrests (a 44.9% clearance rate). In 2011 there were also 379 non-fatal shootings. In 2020, the BPD seized roughly the **same number** of guns (2,244) (including 128 ghost guns), and yet the number of murders was 335 of which only 102 resulted in arrests (a 28.7% arrest clearance rate). And by 2020, the number of non-fatal shootings had nearly doubled from 2011 to 724. Similarly, BPD's weapons possession arrests were 1,224

in 2011, but virtually the same in 2020 (1,233), but the number of murders in 2020 were **81.1%** higher than in 2011. See Attachment.

We note with sadness that Baltimore is headed for a new record in homicides with 36 killings in January 2022, a pace that would result in 432 murders for 2022, a number never seen in Baltimore before. <https://bit.ly/3KYQzN1>. No word from the BPD if any of these killings came from the use of “ghost guns.” The BPD has not released murder arrest numbers for 2021, but we are informed that there were 337 homicides in 2021, 2,355 gun seizures and 726 non-fatal shootings, numbers not much different than 2020. The high number of shootings that were non-fatal suggests the hospitals in Baltimore have vastly improved their ability to treat gunshot wounds. But for that success, the number of murders in Baltimore would be much higher. We note that in the years between 2011 and 2021, the General Assembly enacted numerous gun control statutes, including the much-touted Firearms Safety Act of 2013. None of those laws had the slightest impact on crime in Baltimore. These bills would likewise have no impact. Baltimore is awash in guns.

At a minimum, it should be obvious that there is no correlation (much less cause and effect) between guns seized and violent crime. A more relevant statistic is the clearance rate for serious crimes. As noted above, BPD’s arrest clearance rate for murder in 2020 was a merely 28.7% and only 44.9% in 2011. By comparison, the nationwide clearance rate for murder is 54.4%. <https://bit.ly/3s3qiVb>. Baltimore’s clearance rate for homicides is plainly abysmal, a reality that does not go unnoticed by violent criminals and law-abiding citizens alike. See Johns Hopkins Center for Gun Policy and Research, *Reducing Violence And Building Trust* at 5 (June 2020) (“In Baltimore neighborhoods most impacted by gun violence, residents lack faith in BPD’s ability to bring individuals who commit violence to justice. Perceived risk of being shot and perceptions that illegal gun carrying is likely to go unpunished lead some residents to view gun carrying as a necessary means for self-defense.”). In any event, there is no evidence of which we are aware that the inability to trace an unserialized firearm actually has prevented an arrest for **any** serious violent crime. The General Assembly seriously errs in focusing on “ghost guns” when it should be paying attention to the soaring rate of violent crime.

Second, the proposed regulations issued by the ATF would effectively ban unserialized kits by reclassifying them as “firearms” for purposes of federal law. That reclassification of kits would mean that the frame or receiver of the kit would be required to be serialized (and sold through FFLs like other firearms). Specifically, under the proposed rule, “weapon parts kits with partially complete frames or receivers containing the necessary parts such that they may readily be completed, assembled, converted, or restored to expel a projectile by the action of an explosive would be “firearms” for which each frame or receiver of the weapon, as defined under this rule, would need to be marked.” (86 Fed. Reg. at 27736). After the proposed rule goes into effect in June of 2022, such **unserialized** kits will thus be completely unavailable commercially. Likewise unavailable would be any “readily be converted” unfinished frames or receivers, as the ATF proposed rule would likewise deem such items to be firearms and thus must be serialized in order to be sold legally and only then through FFLs who would perform background checks for these items, just like for any other type of firearm. The only unserialized receivers that would remain unregulated by the ATF would be those receivers that are NOT “readily” converted or assembled into a completed receiver, such as blocks of aluminum sold as “zero percent” receivers and that number is vastly smaller than the current universe of “ghost guns.” As noted, the ATF proposed regulations

heavily tighten the definition of “readily” converted, thereby **further** limiting the number and availability of these remaining types of unfinished receivers.

B. The Bills Would Do Nothing To Prevent Or Deter Criminals From Acquiring Guns While Criminalizing Existing, Law-Abiding Hobbyists

The ATF proposed rule would ban unserialized “kits” and would dry up the market for unserialized receivers. Period, full stop. Yet, ironically, the bans imposed by these bills would not stop any criminal from actually acquiring any non-regulated receivers that would be left, such as “zero percent receivers.” Such items would still not be “firearms” under federal law and thus would not be regulated by federal law. Such items thus would remain available all over the United States, even if the bills should become law and were perfectly enforced 100% of the time. The market for these items is nationwide in scope. Accordingly, nothing in the bans imposed by these bills would or could actually stop any criminal or disqualified person from acquiring all the hardware necessary to make his own gun. All such a person would need do is drive to another state and buy over the counter. The idea that these bills would prevent crime or acquisition of a “ghost gun” is thus sheer fantasy. The ATF rule will do all the work in limiting availability.

More importantly, a disqualified person would not be deterred by these bills because such a disqualified person is **already** precluded by federal law from possessing **any** modern firearm or modern ammunition of **any** type. 18 U.S.C. § 922(g). Actual or constructive possession of a modern firearm or ammunition by a person subject to this firearms disability is a felony, punishable by up to **10** years imprisonment under federal law. See 18 U.S.C. § 924(a)(2). The same disqualification and similar punishments are also **already** imposed under existing Maryland law. See MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). Simple actual or constructive possession of a receiver **alone** (as further defined by the ATF rule) would be sufficient to constitute a violation of these existing laws, as a receiver **alone** is considered a “firearm” under **existing** Maryland and federal law. See 18 U.S.C. § 921(a)(3); MD Code, Public Safety, § 5-101(h)(1)(ii). These bills would not change that reality an iota. See <https://bit.ly/3rgG9Au> (announcing arrests and prosecutions of violent criminals and illegal gun manufacturers in Cecil County).

These bills go beyond the requirements of federal law and the proposed ATF regulations by making possession of existing privately manufactured firearms illegal. That result simply criminalizes innocent, law-abiding hobbyists and gun owners who have done nothing wrong. Existing criminals in possession of a “ghost gun” can be and should be arrested for illegal possession and the existing punishments for such illegal possession are far harsher than those imposed by these bills. These bills will not change that legal reality. Yet, these bills will also result in the arrest of law-abiding hobbyists. The reality is that few existing, otherwise law-abiding owners of these homemade guns will know or realize that possession of their existing firearms or unfinished frames has been banned. Actual compliance by existing owners will thus likely be virtually non-existent. In short, the bills are utterly **pointless** as a public safety measure. They would succeed only in turning otherwise law-abiding citizens into criminals. That is not sound public policy.

C. The Bills Impose Impracticable Requirements

The bills provide that “ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT POSSESS A FIREARM UNLESS:

(1) THE FIREARM IS REQUIRED BY FEDERAL LAW TO BE, AND HAS BEEN, IMPRINTED BY A FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED FIREARMS IMPORTER WITH A SERIAL NUMBER IN COMPLIANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS; OR

(2) THE FIREARM HAS BEEN IMPRINTED BY A FEDERALLY LICENSED FIREARMS DEALER OR OTHER FEDERAL LICENSEE AUTHORIZED TO PROVIDE MARKING SERVICES WITH THE FIRST THREE AND LAST FIVE DIGITS OF THE LICENSEE’S FEDERAL FIREARMS LICENSE NUMBER, FOLLOWED BY A HYPHEN, AND THEN FOLLOWED BY ANOTHER NUMBER.” Taken together, these requirements banning possession go far beyond federal law. They severely criminalizes (with 3 years of imprisonment) innocent possession by law-abiding hobbyists who may have built these firearms or possessed these frames for years, including all privately made guns built since 1968, a period of approximately 53 years. The bills thus encompass an untold number of home-built firearms, probably numbering in the tens of thousands. The requirements imposed by the bills simply cannot be met, much less by the January 1, 2023, effective date of these bills.

The bills would require every innocent owner of a receiver (or existing firearm) to have it “imprinted” with a serial number “issued by” a federal licensed “firearms manufacturer” importer or other “federal licensee authorized to provide marking services.” Such a licensed manufacturer is also known as a “Class 07” FFL and these manufacturers necessarily possess the equipment and expertise to perform serial number markings, as Section 923(i) has imposed this requirement on manufacturers since 1968. While there are many other, non-manufacturer FFLs in Maryland, almost all of these FFLs are dealers who merely sell firearms or perform transfers and are thus classified as Class 01 FFLs. See <https://www.atf.gov/resource-center/types-federal-firearms-licenses-ffls>. These Class 01 dealers do not perform engraving required by Section 923(i) as they are not manufacturers or importers, the two types of entities on whom the duty to engrave serial numbers is imposed by Section 923(i). The proposed ATF rule would require a federally licensed dealer to perform engravings *only* if an unserialized firearm was accepted by the dealer and thus entered in the dealer’s A&D books as an acquired firearm. See 86 Fed. Reg. at 27737 (“FFLs would be required to mark PMFs within 7 days of the firearm being received by a licensee, or before disposition, whichever first occurs.”). Since Class 01 dealers cannot perform this function, this requirement would be primarily applicable to Class 07 manufacturers, of which there are relatively few in Maryland, as compared to Class 01 dealers. Nothing in the ATF rule would require any dealer to accept a homemade gun into his inventory or perform any engraving.

The bills require that the marking be done “in compliance with all federal laws,” and thus the bills would require the federal licensee to meet the engraving requirements specified in Section 923(i) and implementing federal regulations. Federal regulations require that the markings must be to a minimum depth of .003 inches and in a print size no smaller than 1/16 inches and “must be placed in a manner not susceptible of being readily obliterated, altered, or removed.” 27 C.F.R. §478.92(a)(1). That process requires a precision engraving

machine. For example, an entry level engraving machine that can fully comply with federal law costs in the neighborhood of \$7,000 and that machine is of low quality. Engage Armaments, a Class 07 manufacturer in Rockville, MD, uses a \$75,000 engraving machine to engrave serial numbers. See attached 2021 illustrated testimony of Andrew Starr Raymond, Co-Owner – Engage Armament LLC, of Rockville, MD (submitted with respect to 2021 bills HB 638 and SB 624). Relatively few manufacturers with this sort of capability to ‘imprint’ a serial number in compliance with federal law even exist in Maryland. Class 01 dealers, of which there are hundreds in Maryland, have neither the expertise nor the equipment to engrave a serial number in a manner compliant with Section 923(i). No serial number can be engraved in a polymer frame, as such number could be easily obliterated in this relatively soft material and polymer burns when engraving is attempted with lasers or other hot engraving tools. Existing manufacturers of polymer frames, such as Glock and Sig Sauer, thus use a metal plate insert on which to do such engraving. Arguably, Class 01 dealers are not even authorized by federal law to engage in such engraving as federal law, Section 923(i), expressly is limited to “manufacturers” and “importers.”

The bills also require that any federally licensed manufacturer, importer or other federal licensee “authorized to perform marking services” must also “retain records for all firearms imprinted in accordance with all federal laws and regulations applicable to the sale of a firearm.” That requirement would impose additional legal risks and costs on the Class 07 dealer, above and beyond the costs of maintaining the equipment and the training necessary to perform engraving markings to the level required by Section 923(i) and federal regulations. Few, if any, dealers would take on these additional costs and risks necessary to meet the demand that would be created by these bills. In sum, these risks and the high costs associated with investing in the equipment and training additional personnel necessary to perform the required engraving would ensure that very few dealers would offer the engraving services to existing owners. Thus, there is no likelihood that such services would be actually available to existing owners by January 1, 2023, the effective date of the ban on mere possession. These practical realities effectively convert the bills into a total ban on the possession of any existing receiver or firearm as it would be virtually impossible for all the existing owners to obtain a serial number. The mere six months available to obtain the required engraving is unrealistically short.

D. These Bills Are Overbroad and Violative of the Due Process Clause of the 14th Amendment

As noted, the bills impose a new definition of a “firearm” that goes beyond any federal definition of “firearm.” That definition would be far stricter than any definition of firearm that would be imposed by the proposed ATF rule. Specifically, the bills define a firearm to include “A FORGED, CAST, PRINTED, EXTRUDED, OR MACHINED BODY OR SIMILAR ARTICLE THAT: * * * (2) IS MARKETED OR SOLD TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED.” Mere possession of such an object would be criminalized after January 1, 2023. This definition leads to absurd results. There is no “reasonable person” modifier for the ban on the possession of an object that was marketed or sold for this purpose. There is no *mens rea* requirement. The bills impose strict criminal liability for mere innocent possession.

For example, under these provisions, the bills would impose a ban on the mere possession of a “zero percent” receiver (a solid block of aluminum) marketed as such. See e.g.:



And because that block of aluminum was originally marketed as a zero percent receiver, the bills would criminalize mere possession of the block even though the possessor of this block of solid aluminum intended to use it as a paper weight or a book end or (in the undersigned’s case) as a means to illustrate the absurdities of Maryland ghost gun bills. And because the bills strictly ban mere possession, regardless of whether the possessor even knew that the block of aluminum had been “marketed” for these purposes, the bills would likewise criminalize a person who was **utterly unaware** that the block was originally marketed as a “zero percent receiver.” In short, the reach of the bills is vastly overbroad.

This overbroad coverage of the bills is particularly pernicious as the bills contain no *mens rea* requirement and thus impose strict criminal liability for simple possession (or constructive possession) without regard to the owner’s actual purpose, knowledge or intent. In contrast, an intent or knowledge requirement is part and parcel of federal gun control law. See, e.g., *Rehaif v. United States*, 139 S.Ct. 2191 (2019) (holding that the “knowingly” requirement on the federal ban on possession of a firearm by an illegal alien required proof that the alien actually knew that he was illegally in the United States). This sort of *mens rea* requirement is also part of Maryland law. See, e.g., *Chow v. State*, 393 Md. 431 (2006) (holding that a knowing violation of a Maryland statute making it unlawful for a person who is not a regulated gun owner to sell, rent, transfer, or purchase any regulated firearm without complying with application process and seven-day waiting period requires that a defendant knows that the activity they are engaging in is illegal).

Indeed, most recently, the Maryland Court of Appeals has stressed the importance of a *mens rea* requirement in the context of Maryland’s ban on carrying a handgun imposed by Md. Code Criminal Law, § 4-203(a)(1) (providing that “person may not: (i) wear, carry, or transport a handgun, whether concealed or open, on or about the person”). *Lawrence v. State*, 475 Md. 384, 408, 257 A.3d 588, 602 (2021) (discussing the Supreme Court’s longstanding presumption that criminal statutes should generally include a *mens rea* requirement). The *Lawrence* Court even suggested that a strict liability law could violate the Due Process Clause for lack of notice, taking the extraordinary step of expressly communicating this point to the General Assembly. See *Lawrence*, 475 Md. at 420-21. As the Court stated, these “policy concerns” made it appropriate “to signal to the General Assembly” that, “in light of these policy concerns, ... legislation ought to be considered” to

address the scope CR § 4-203(a)(1)(i) given its classification as a strict liability offense.” (Id. at 422). The General Assembly ignores such “signals” at its peril.

Here, because the bills impose strict liability, it would not matter if the existing owners simply were unaware that these new requirements even exist. Without doing a thing, they would unknowingly wake up on January 1, 2023, as criminals. Such a law is violative of the Due Process Clause as it criminalizes entirely passive conduct by a person who is without actual knowledge of the requirement. See *Lambert v. California*, 355 U.S. 225, 228 (1957) (striking down a California statute under the Due Process Clause where “entirely passive conduct could subject a defendant to conviction without any knowledge of their duty to comply with the statute”); *Lawrence*, 475 Md. at 420-21 (citing *Lambert*). It should be obvious that few law-abiding citizens follow the legislative sausage-making of the Maryland General Assembly. See also *Conley v. United States*, 79 A.3d 270, 282 (D.C. 2013) (“[T]he requirement of notice embodied in due process ‘places some limits’ on the application of these tenets [that ignorance of the law is no defense] when a law criminalizes ‘conduct that is wholly passive’ ... [and] unlike the commission of acts, or the failure to act under circumstances that should alert the doer to the consequences of his deed.”).

Indeed, *Lawrence* makes clear that this lack of a *mens rea* requirement plus the use of vague, ill-defined terms will virtually ensure that these bills will be struck down as unconstitutionally vague. As noted above, *Lawrence* took pains to expressly “signal” the General Assembly that the ban on carrying a handgun “**about**” the person found in Md. Code Criminal Law, § 4-203(b)(1), is unconstitutionally vague and that the Court would strike it down on that basis in the next appropriate case. See *Lawrence*, 475 Md. at 420-21. These bills are fatally vague in the same way. In particular, the bills criminalize the possession of any unfinished receiver that can be “readily” converted into a firearm. That term is inherently vague. While federal law, 18 U.S.C. § 921(a)(1)(3) uses the same term, existing federal regulations have long limited that term by defining “frame or receiver” to mean: “That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.” See 27 C.F.R. § 478.11. As explained above, the ATF and the Department of Justice have long maintained that an 80% unfinished receiver is not a firearm within the meaning of Section 921(a)(3) because such an object is not “readily converted” into a firearm. The ATF proposed regulation likewise refines that existing definition of a frame or receiver so as to tighten the definition of “readily converted” to include kits and other items. See 86 Fed. Reg. at 27730. These bills are devoid of such limiting definitions.

Context also matters. Unlike the bans imposed by these bills, federal law is far narrower, as nothing federal law purports to criminalize mere *possession* of a receiver by an otherwise law-biding person, much less criminalize the mere possession of an “unfinished” receiver. And nothing in federal law, including the proposed federal ATF regulations, purport to ban or limit an individual’s right to make firearms at home for personal use. In contrast, these bills criminalize mere innocent possession and are completely silent as to the meaning of “readily.” Indeed, the bills do not even purport to incorporate the federal definition, either the existing definition or the proposed ATF changes to that definition of “readily.” A person is left totally at sea as to the meaning under these bills.

In contrast, as noted above, federal firearms law imposes specific *mens rea* requirements. For example, a violation of 18 U.S.C. § 922(a)(1)(B) (barring “any person” except federal

licensees from engaging in the “business” of the manufacture of firearms) is not a crime unless the person “willfully” violates that provision. See 18 U.S.C. § 924(a)(1)(D). Such a “willful” violation is a 5 year federal felony. (Id.). The Supreme Court has held that “in order to establish a ‘willful’ violation of a statute, ‘the Government **must prove that the defendant acted with knowledge that his conduct was unlawful.**” *Bryan v. United States*, 524 U.S. 814, 191-92 (1998), quoting *Ratzlaf v. United States*, 510 U.S. 135, 137 (1994) (emphasis added). No such *mens rea* requirement is found in these bills.

As noted above, the same unconstitutional lack of notice is self-evident in the bills’ strict liability ban on possession of any item that is “marketed” or “sold” as an unfinished lower receiver, as the bills do not require any knowledge that the item was thus marketed or sold. The bills would ban a block of aluminum if it was marketed or sold as zero percent receiver, but would permit the sale and possession of the **same** block of aluminum if it was marketed or sold as something else. That result is bizarre. Either the block of aluminum is a significant threat to public safety or it is not – how it is “marketed” ought to be irrelevant. In any event, a person possessing such a block of aluminum may have no idea how it was sold or marketed, yet the mere possession of the block would be criminalized by these bills. Indeed, apparent from obvious circumstances, such as a printed advertisement, the term “marketed” is simply too vague to provide an intelligible standard.

The Supreme Court has made clear that such vagueness is particularly intolerable where the terms affect the exercise of a constitutional right. See, e.g., *City of Chicago v. Morales*, 527 U.S. 41, 53 (1999). There, the Court found highly significant that the loitering ordinance in question was a “criminal law that contains no *mens rea* requirement” and concluded “[w]hen vagueness permeates the text of such a law, it is subject to facial attack.” Id. at 55. See also *Colautii v. Franklin*, 439 U.S. 379, 394 (1979) (“This Court has long recognized that the constitutionality of a vague statutory standard is closely related to whether that standard incorporates a requirement of *mens rea*.”) (collecting cases). As explained below, these bills use vague language in an effort to regulate the exercise of a Second Amendment right to make firearms for personal use, a practice long steeped in our Nation’s history and traditions. In short, these bills will not survive a constitutional vagueness challenge.

Indeed, Nevada’s “ghost gun” law was recently struck down on vagueness grounds for failing to adequately define “unfinished frame or receiver” under the Due Process Clause of the Nevada constitution. *Polymer80, Inc. v. Sisolak*, No. 21-CV-00690 (3d Jud. District for Co. of Lyon, December 10, 2021). The court found it significant that Nevada statute, like these bills, did not contain a *scienter* or *mens rea* standard. See Id., slip op. at 14. The Nevada courts employ the same test for vagueness as employed by Maryland Court of Appeals under Article 24 of the Maryland Declaration of Rights and by the federal courts under the Due Process Clauses of the Fifth and Fourteenth Amendments. See, e.g., *Flamingo Paradise Gaming v. Att’y General*, 125 Nev. 502, 510 (2009) (“A criminal statute can be invalidated for vagueness (1) if it fails to provide a person of ordinary intelligence fair notice of what is prohibited or (2) if it is so standardless that it authorizes or encourages seriously discriminatory enforcement.”); *Galloway v. State*, 365 Md. 599, 614-15, 781 A.2d 851 (2001) (“The void-for vagueness doctrine as applied to the analysis of penal statutes requires that the statute be ‘sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties’” and must provide “legally fixed standards and adequate guidelines for police ... and others whose obligation it is to enforce, apply, and administer [it]” and “must eschew arbitrary enforcement in addition to being intelligible to

the reasonable person.”); *Kolender v. Lawson*, 461 U.S. 352, 357 (1983) (a penal statute must “define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement”). These bills are awaiting the same fate as the Nevada statute.

Here, for example, the bills’ criminal penalties could be imposed **even though** it would take substantial expertise and a very sophisticated milling machine costing many thousands of dollars to convert a “zero percent” receiver block of aluminum into an 80% receiver, not to mention the *additional* milling that would be required to convert it into an actual **finished** receiver. As explained above, additional assembly of more parts (a barrel, a trigger, a slide and associated springs and parts) would then be necessary to convert that finished receiver into something that could actually fire a round of ammunition. It blinks reality to believe that such an object is a significant threat to public safety requiring the imposition of strict liability. That is particularly so when federal law already ban any person (other than an licensee) from engaging in the “business” of manufacture, and federal and State law already criminalizes possession of any receiver by disqualified persons. As the Supreme Court stated in *Rehaif*, it is a “basic principle that underlies the criminal law, namely, the importance of showing what Blackstone called ‘a vicious will.’” *Rehaif*, 139 S.Ct. at 2196, quoting 4 W. Blackstone, Commentaries on the Laws of England 21 (1769). As a matter of sound public policy and simple fairness, the General Assembly should not be enacting criminal statutes without a *mens rea* requirement. *Morrisette v. United States*, 342 U.S. 246, 250 (1952) (“The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil.”).

Then there are other absurdities associated with the extreme overbreadth of the bills. For example, as explained, the bills effectively require that a Class 07 manufacturer engrave a serial number on this solid block of aluminum marketed as a “zero percent” receiver. Yet, that serial number would then be obliterated should that block ever be actually milled. Any such removal of the serial number would be a **federal felony** under 18 U.S.C. § 922(k), which makes it a crime to “possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered.” A knowing violation of Section 922(k) is punished by up to 5 years in a federal prison. See 18 U.S.C. § 924(a)(1)(B). That reality illustrates the legal absurdity of criminalizing the possession of objects that are **not** regulated by federal law. In short, in their attempt to be all-encompassing, the bills create multiple unconstitutional traps for the unwary. **The bills thus invite arbitrary and discriminatory enforcement. We all know which segments of society will bear the enforcement brunt of these bills.** See *McDonnell v. United States*, 136 S. Ct. 2355, 2373-74 (2016) (noting that “we cannot construe a criminal statute on the assumption that the Government will ‘use it responsibly’”) (quoting *United States v. Stevens*, 559 U.S. 460, 480 (2010)). In short, given that the ATF is about to abolish the sale of unserialized kits and anything else that can be “readily” converted into a receiver, it is overkill to go beyond that regulation to criminalize additional items, especially in a bill that otherwise incorporates and relies on federal law as setting the appropriate standards.

E. These Bills Are Unconstitutional Under The Second Amendment

As noted, this bills imposes a categorical ban on the mere possession in the home of a previously-owned unfinished receiver or a firearm without a serial number. Such a gun ban violates the Second Amendment right of owners to possess firearms under *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. Chicago*, 561 U.S. 742, 750 (2010). Even under the least demanding test (“intermediate scrutiny”), if the State can accomplish its legitimate objectives without a ban (a naked desire to ban guns or penalize gun owners is not legitimate), then the State must use that alternative. *McCullen v. Coakley*, 134 S. Ct. 2518, 2534 (2014). Stated differently, under intermediate scrutiny, the State has the burden to demonstrate that its law does not “burden substantially more [protected conduct] than is necessary to further the government’s legitimate interest.” *Id.* at 2535, quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 796 (1989). See also *NY State Rifle & Pistol Assn. v. Cuomo*, 804 F.3d 242, 264 (2d Cir. 2015), *cert. denied*, 579 U.S. 517 (2016) (striking down a 7 round load limit in a firearm magazine because the limit was “untethered from the stated rationale”). See also *Reynolds v. Middleton*, 779 F.3d 222, 232 (4th Cir. 2015) (holding that, under the intermediate scrutiny test as construed in *McCullen*, the government must “prove that it actually tried other methods to address the problem”). (Emphasis in original).

The test for “strict scrutiny” is even more demanding as, under that test, the State must prove both a “compelling need” and that it used the “least” restrictive alternative in addressing that need. See *United States v. Playboy Entm’t. Grp., Inc.*, 529 U.S. 803, 813 (2000). More generally, the constitutionality of gun laws must be analyzed under the “text, history and tradition” test that was actually used in *Heller* and *McDonald*. See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1269 (D.C. Cir. 2016) (Kavanaugh, J., dissenting) (“In my view, *Heller* and *McDonald* leave little doubt that courts are to assess gun bans and regulations based on text, history, and tradition, not by a balancing test such as strict or intermediate scrutiny.”). There is no “text, history or tradition” that could possibly support the types of bans imposed by these bills.

We are compelled to note that the Supreme Court may well clarify the appropriate standard of review for Second Amendment cases in its upcoming decision in *NYSRPA v. Bruen*, No. 20-843, *cert. granted*, 141 S.Ct. 2566 (2021). *Bruen* was argued November 3, 2021, and a decision is expected by June of this year. See also *ANJRPC v. Bruck*, No. 20-1507 (S.Ct.) (challenging New Jersey’s ban on so-called large capacity magazines; the petition for certiorari in that case is presently being held by the Supreme Court pending a decision in *Bruen*). We note as well that Maryland’s ban on so-called “assault weapons” is currently before the Supreme Court on a petition for certiorari in *Bianchi v. Frosh*, No. 21-902 (S.Ct.) (docketed December 16, 2021). A decision in *Bruen* may well affect the disposition of that petition as well.

Heller held that guns in “common use” by law abiding persons are prima facie protected arms under the Second Amendment. *Heller*, 554 U.S. at 627. Homemade guns easily satisfy this requirement as there are literally tens of thousands of such guns made over many years throughout the United States. Guns for personal use have been made at home for centuries, even before the Revolutionary War. The State simply may not disregard that reality and outright ban all home manufacture of firearms. See *Caetano v. Massachusetts*, 136 S.Ct.1027 (2016) (summarily reversing Massachusetts’ highest court for failing to follow the reasoning of *Heller* in sustaining a state ban on stun guns); *Ramirez v. Commonwealth*, 479

Mass. 331, 332, 352 (2017) (on remand from *Caetano*, holding that “the absolute prohibition against civilian possession of stun guns under § 131J is in violation of the Second Amendment” and declaring the State’s absolute ban to be “facially invalid”). Homemade guns are at least as much “in common use” as stun guns at issue in *Caetano*.

Here, the supposed evil that these bills purport to address is guns without serial numbers because such guns are not “traceable.” That interest is necessarily limited. Tracing runs out after identification of the gun’s first purchaser and firearms may be stolen or sold and resold many times in their lifetime. As explained above, criminals, who may not possess firearms at all, will not be deterred by the bills as possession of a firearm by a prohibited person is already a 10-year federal felony, 18 U.S.C. § 922(g), and a serious crime under existing State law, MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). No criminal not deterred by the prospect of a federal felony conviction will be deterred by these bills. The few crimes that are solved by tracing guns left at a crime scene are only a small fraction of guns used in crimes because relatively few guns are actually traced by the ATF. See David B. Kopel, Clueless: The Misuse of BATF Firearms Tracing Data. <http://www.davekopel.org/2A/Law/Blue/CluelessBATFtracing.htm>. See also Police Departments Fail to Regularly Trace Crime Guns. <https://www.thetrace.org/2018/12/police-departments-gun-trace-atf/>. The ATF itself has cautioned against any use of trace data, noting that “[t]he firearms selected [for tracing] do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe.” Bureau of Alcohol, Tobacco, Firearms and Explosives. Firearms Trace Data, 2016: Maryland, <https://www.atf.gov/docs/163521-mdatfwebsite15pdf/download>. As the ATF further notes, “[n]ot all firearms used in crime are traced and not all firearms traced are used in crime,” stating further that “[f]irearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.”

But, if the concern is truly that these guns lack a serial number for tracing (rather than an illegitimate desire to criminalize gun owners and hobbyists), then that concern can be fully addressed without banning homemade guns. Specifically, there are alternatives to bans. For example, a law passed in California (which is ranked by the Giffords Law Center as having the most restrictive gun laws in the nation) provides that a new resident to the state shall apply to the Department of Justice for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously self-manufactured or self-assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification. As of July 1, 2018, prior to manufacturing or assembling a new firearm, a person is required to apply to California for a unique serial number. The gun owner is then simply required to engrave that number onto the receiver and report back to California with proof that he or she has done so. As of January 1, 2019, owners of existing guns were required to apply for such serial numbers and perform this engraving. See California Penal Code §§ 29180-29184. In short, assembly of new homemade guns and existing possession is permitted as long as this serial number is obtained, engraved and reported. California Penal Code §29180. In this way, the owner is identified and the gun is fully “traceable” and thus no longer a so-called “ghost gun.” A violation of the California law is punishable with a year imprisonment or a \$1,000 fine if the firearm was a handgun and by 6 months imprisonment and a fine for other types of firearms. (Id.). Connecticut uses a similar system. See Conn. Gen. Stat. 29-36a,b.

Indeed, D.C. has responded to a federal lawsuit by amending its “ghost gun” law to specifically provide that an owner “may register a self-manufactured firearm that does not bear a serial number as described in paragraph (l)(B) of this subsection, if, prior to finishing the frame or receiver, the applicant has caused a unique serial number to be engraved, casted, stamped (impressed), or placed on the unfinished frame or receiver, as set forth in subparagraphs (B) and (C) of this paragraph.” Ghost Gun Clarification Emergency Amendment Act of 2021, subsection (b), amending D.C. Official Code § 7-2502.02 (December 13, 2021). This approach allows the continued manufacture of privately made firearms while addressing the perceived need for a serial number. The D.C. approach does not require adherence to federal Section 923(i) standards for such future manufacture – it allows the owner to engrave a number as long as he or she confirms with the MPD “that the proposed serial number has not already been registered to another firearm.” (Id.) As these laws indicate, there are less restrictive alternatives. If D.C. can do this, then Maryland can too. There is no reason to take the extreme step of flatly banning homemade guns or converting existing owners into criminals. Under *Heller*, the State may not reject this alternative simply because a draconian general ban is more convenient. Gun owners may not be criminalized for such flimsy reasons. See, e.g., *Bonidy v. Postal Service*, 790 F.3d 1121, 1127 (10th Cir. 2015), *cert. denied*, 577 U.S. 1216 (2016) (“administrative convenience and economic cost-saving are not, by themselves, conclusive justifications for burdening a constitutional right under intermediate scrutiny”).

We note in this regard that, in 2019, the House Judiciary Committee favorably reported and the House of Delegates ultimately passed HB 740 (the bill died in the Senate). That bill expressly required the State Police to conduct a study of this California alternative. These bills unaccountably abandon that approach. Yet, this California approach is even more appropriate (from the State’s perspective) given that the ATF regulations will go into effect in June of 2022. Those regulations will effectively dry up the interstate availability of unserialized kits and other unserialized unfinished receivers that may be “readily” converted into firearms. Those regulations will thus effectively address the future availability of “ghost guns” as no current manufacturer of such unserialized unfinished receivers or kits would be allowed to continue to sell such items. Doing so would be a federal felony, nationwide. See 18 U.S.C. § 922(a)(1)(A) (barring “any person” except federal licensees, from engaging in the “business” of manufacturing or, in the course of such business, from shipping, transporting or receiving any firearm in interstate or foreign commerce); 18 U.S.C. § 924(a)(1)(D) (punishing such conduct as a felony). The bills thus should be **more accommodating** to existing owners, not more punitive. There is no need to pursue a scorched earth policy against existing law-abiding owners who have committed no crime. The State should have zero interest in needlessly criminalizing otherwise law-abiding Marylanders. Maryland already has more than enough criminals. Plainly, these bills have not exhausted reasonable alternatives.

F. The Penalties Are Excessively Severe

As noted, under these bills any violation is punishable by imprisonment for up to three years for each violation and/or a fine of \$10,000 for each violation (the bills make clear that “each violation . . . is a separate crime”). As noted above, not even California imposes such severe penalties. Similarly, D.C. punishes a violation of its “ghost gun” statute with not more than 1 year imprisonment and a fine of \$2,500. Code of the District of Columbia § 22–4515. By

making each privately manufactured firearm a separate crime, the bills empower prosecutors to seek extreme prison terms and fines in the aggregate if the owner happened to possess multiple privately manufactured firearms, as many hobbyists do. Such penalties are breathtaking when applied to existing owners who may have legally possessed their privately manufactured firearms for decades, without incident or any problem. Suddenly, these owners will have a mere 6 months to find a Class 07 FFL manufacturer who is willing and able to mark all his or her homemade firearms in accordance with the bills' strict requirements. And that is assuming that these owners even know about these requirements.

Indeed, only last Session, the "ghost gun" bills would have imposed only a **civil penalty** for a first offense, not a severe, disqualifying, criminal penalty. See HB 638 and SB 624 (providing that "for a first violation, is guilty of a **civil offense** and on conviction shall be fined not less than \$1,000 but not exceeding \$2,500"). Those bills did not make each violation "a separate crime." Under these prior bills, a **second conviction** would have been punishable by imprisonment for 2 years and a \$5,000 fine, still less than 3 years and the \$10,000 fine imposed **for each violation** by these bills. A misdemeanor crime punishable by 2 years or less is not disqualifying under State and federal law. See 18 U.S.C. § 921(a)(20)(B); Md. Code Public Safety, § 5-101(g)(3). HB 638 and SB 624 last Session thus did not create the permanent disqualification created by these bills. What has changed (other than the involvement of Attorney General Frosh)? There is no evidence whatsoever that existing, law-abiding owners have suddenly turned to a life of crime. Disqualified persons, or persons who misuse their firearms or illegally manufacture and sell guns can be and are arrested and charged with existing serious crimes without criminalizing the law-abiding owners. There is no public safety justification for treating these law-abiding citizens in such a vindictive, cavalier manner.

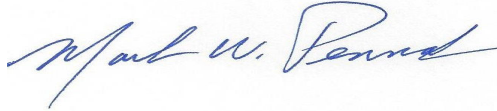
G. The Bills' Exemption For Firearms Made "Before 1968" Is Erroneous

The bills provide that the requirements imposed by the bills do not apply to "A FIREARM THAT: (I) WAS MANUFACTURED BEFORE 1968." This exemption is in apparent recognition that serial numbers were not required by federal law until the enactment of the federal Gun Control Act of 1968, Public Law 90-618, 82 Stat. 1213 (1968). However, the Gun Control Act of 1968 was not even enacted into law until October 22, 1968, and that portion of the Act requiring serial numbers (Section 923(i) enacted as part of Section 102 of the Act) did not go into effect until December 16, 1968. See Section 105(a), 82 Stat. at 1226. Thus, by exempting only firearms manufactured "before 1968" the bills erroneously include unserialized firearms made between January 1, 1968, and December 15, 1968. Many thousands of firearms without serial numbers were undoubtedly manufactured during that nearly year-long time period. Many, if not most, of those firearms cannot be distinguished from guns made prior to 1968. The bills' reference to "before 1968" is just lazy and sloppy draftsmanship. The bills should be thus amended to recognize the correct effective date of the Gun Control Act of 1968. After all, this is a criminal statute and thus must be written with precision. See, e.g., *United States v. Vuitch*, 402 U.S. 62, 69 n.3 (1971) (noting the need for "necessary precision in [a] criminal statute").

CONCLUSION

Given all the problems, detailed above, the bills have plainly not been fully thought out. For all these reasons, we strongly urge an unfavorable report.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is written in a cursive style with a large, prominent initial "M".

Mark W. Pennak
President, Maryland Shall Issue, Inc.
Maryland Shall Issue, Inc.
9613 Harford Rd, Ste. C #1015
Baltimore, MD 21234-21502
mpennak@marylandshallissue.org

YEAR	ARRESTS	HOMICIDES	MURDER ARRESTS	GUN SEIZURES	WEAPONS POSSESSION ARRESTS	NONFATAL SHOOTINGS
1990	61,394	305	347	2487	1727	N/A
1991	65,033	304	322	2754	1865	N/A
1992	65,214	335	335	3614	1895	N/A
1993	69,699	353	382	3571	1852	N/A
1994	70,354	321	382	3478	1693	N/A
1995	73,521	325	496	3566	1791	N/A
1996	55,662	333	463	4241	1758	N/A
1997	71,709	313	271	4560	1923	N/A
1998	82,377	315	557	3718	1646	N/A
1999	80,775	305	501	3545	1228	N/A
2000	81,225	261	239	4117	1019	725
2001	93,778	256	245	2822	1418	684
2002	102,396	253	214	3598	1241	610
2003	110,164	270	194	3173	1305	545
2004	100,388	276	156	2791	1211	636
2005	99,980	269	128	5110	1407	557
2006	90,283	276	119	3055	1348	657
2007	82,529	282	125	3495	1328	651
2008	78,511	234	103	2714	1325	585
2009	75,194	238	132	2674	1162	450
2010	64,525	223	126	2378	1271	419
2011	60,009	196	88	2178	1224	379
2012	56,649	218	94	2296	1169	370
2013	50,424	233	115	2205	1280	402
2014	46,231	211	86	1874	1299	370
2015	32,939	344	106	1900	1227	635
2016	25,432	318	140	2124	1244	666
2017	29,042	343	125	1917	1080	702
2018	25,563	309	101	3911	1257	677
2019	24,826	348	89	2203	1161	770
2020	16,204	335	102	2244	1233	724
2021	13,592	337	POLICE OWE ME THIS	2,355	1,438	726

NR?



ENGAGE ARMAMENT, L.L.C.

701 E. GUDE DRIVE, STE 101, ROCKVILLE, MD 20850 301-838-3151

WRITTEN TESTIMONY OF ANDREW RAYMOND, OWNER OF ENGAGE ARMAMENT LLC, AGAINST HOUSE BILL 638

To Whom It May Concern,

My name is Andrew Raymond, and I am the co-owner of Engage Armament LLC, a federally licensed firearms manufacturer who has been in business for 11 years. I am a lifelong Maryland resident, and my family has been in Maryland on both sides for at least 337 years.

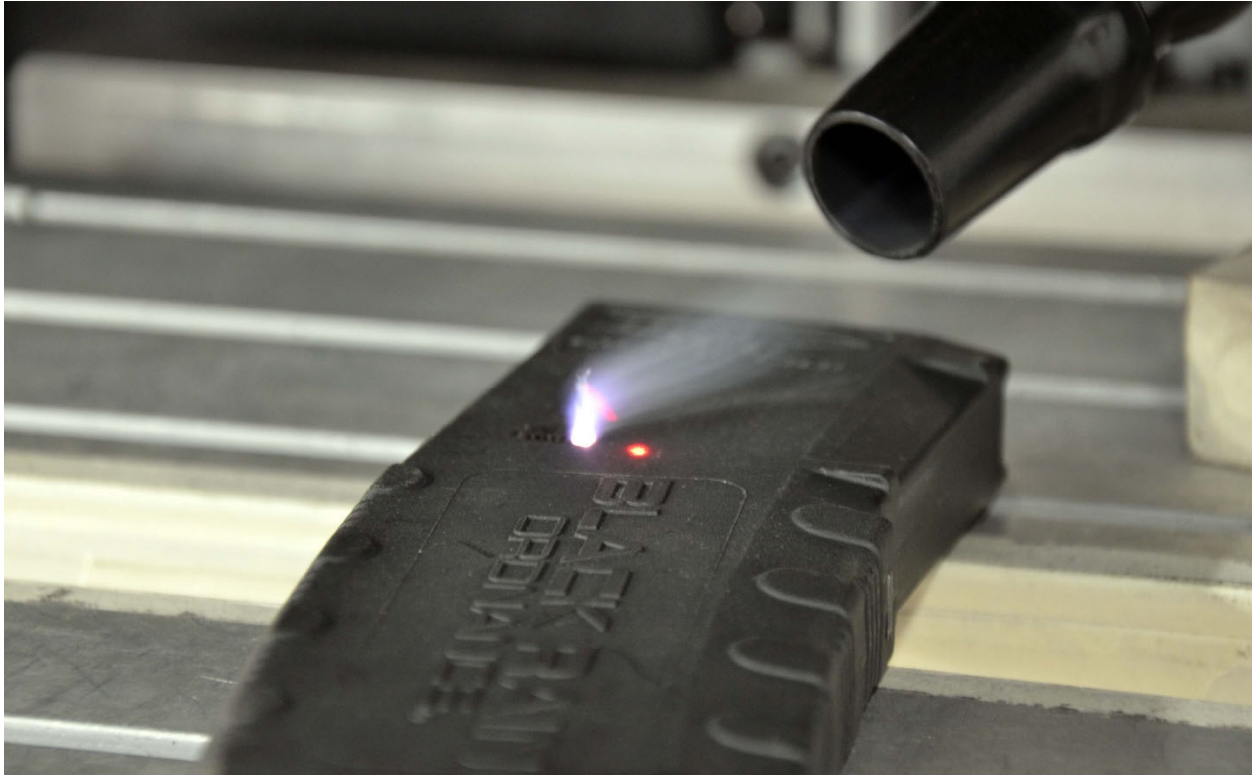
Part of firearm manufacturing is engraving the ATF required information on a firearm. I would say we have become experts on firearm markings over the past years and have invested more than \$75,000 in firearm marking equipment to not only comply with the federal regulations but also to have the most advanced equipment to do so. Our main tool is a 60W fiber laser made entirely in the United States.

From both the cost and technical implications, there are a multitude of issues with this bill.

The cost of getting quality equipment to do the job effectively. As mentioned early, we spent quite a bit of money getting quality equipment, but even cheap imported equipment to mark metal will cost at least \$7,000 and do a poor job of doing so, especially considering depth and permanency of the engraving.

The cost to the consumer will also increase significantly. For example, presently for NFA engraving we charge \$45 which is the basic requirement of name/city/state under the National Firearms Act. This bill requires individuals to have their information engraved along with serial number, model AND after 1st January 2022 the manufacturers and "importers" info. This is substantially more required markings; therefore costs are going to quite high. For example, if I need to mark the info of the person who made the forging, plus my own info, and the gun information that could easily run \$90 or more. That is on an item that would normally cost about \$50 for an AR forging. I should also mention that I did ask for friends/acquaintances who I knew built their own firearms for a brief rundown of the numbers of items they may have. It appears most people who enjoy this hobby have many items that would fall under this bill. For example, engraving 5 items at \$90 per engraving would cost \$450. Many of these people are on the younger side, and in our current economy might not be able to afford compliance with the bill.

The other issues are technical. The first to be the actual act of marking the "receivers". Generally, these "receivers" are made either out of metal or polymer. Polymer has a great deal of variance to it and engraving settings from one type of polymer will catch another set on fire:

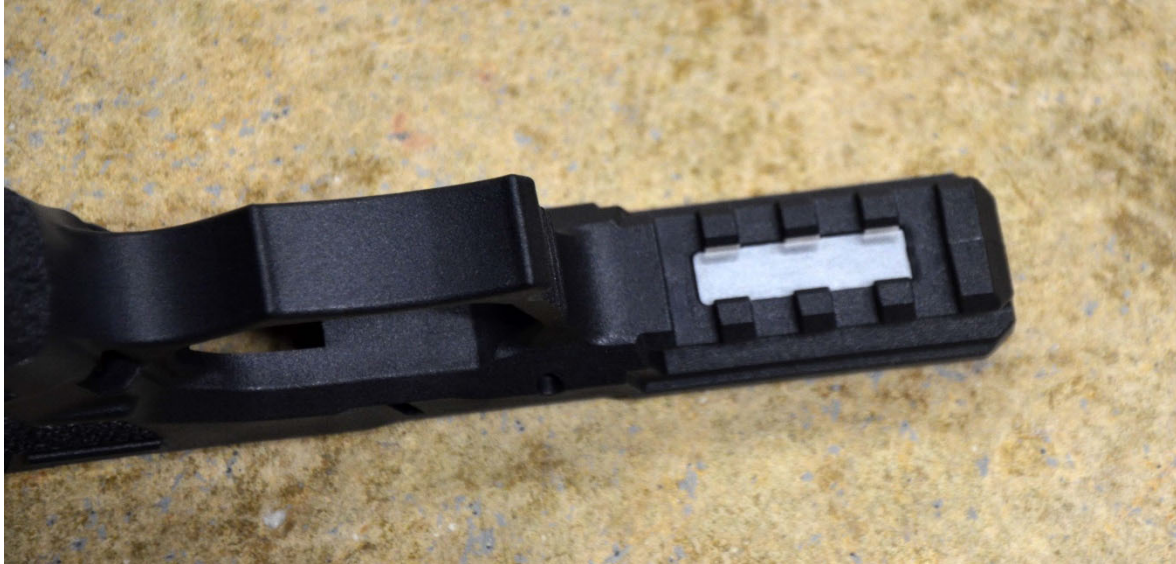


Here you can see a magazine catching fire using the settings from a known German polymer on this unknown polymer. The result is:

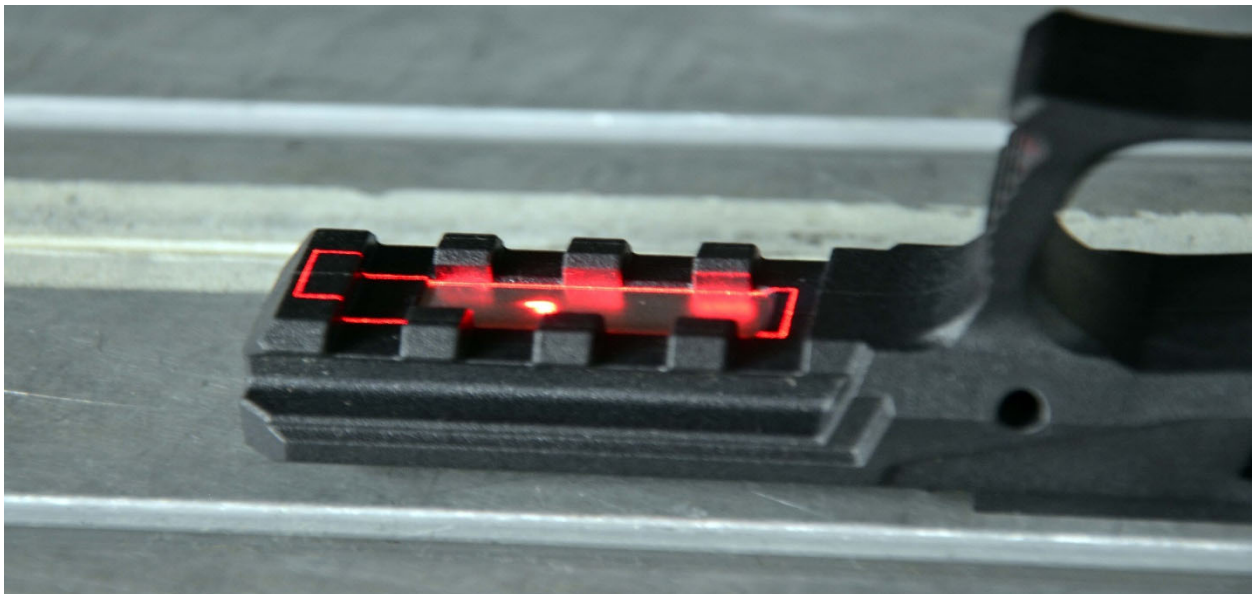


This marking is not legible and would not be compliant. Not to mention most people would now consider the product destroyed.

The next technical issue is sizing. While a metal “receiver” has a multitude of places to pollute with engravings, a good percentage of these products are polymer. A good example of the sizing issue would be the Polymer 80 “receivers” which are probably the most common plastic hobby “receivers” we see. These have a small metal piece imbedded in the polymer specifically for engraving purposes:



This small metal piece usually gives us only enough space for a serial number. In fact, to add the requirements from this law would require us to bring the size down to the point where it would not be compliant or readily legible. The below picture is a laser overlay of the space required for compliant sized markings using my personal information:



As you can see, the required engraving cannot fit in the supplied space. Once again, this is using my personal info as required under the law.

We should also consider required markings of original manufacturer and seller/importer into the state. This would double the space requirement and would not be feasible to do. Shrinking the size would not be compliant/legible either. The below is an example of that information at the minimum compliant size:



In order to fit only one set of the required markings my information must be shrunk to .055 which is not compliant. In the below picture, that is the 3rd example:



Another issue is going to be the length of the individual's name. For example, one of our customers is named "Ad***** Ra***** Kr*****". His name has 32 characters not including spaces. I have no idea how we can fit that along with city, state, caliber etc. I am also not going to charge standard rates for an engraving of this size and will have to move to a per character rate. I believe this will disproportionately effect persons of color and increase their cost to comply with this law.

Manufacturers/brokers will not be able to effectively fit the required information on all types of these "receivers" in a compliant fashion as there will just not be enough space on a good percentage of these items.

The cost to the customer is also going to go up substantially if people even decide to continue their hobby or be compliant.

While my company stands to gain financially from it, we stand against it not only on principle but also upon the basis of the unfeasible practicality of the requirements. I urge you to fully consider the cost implications, practicality, and the inequity of this bill and issue an unfavorable report.

Sincerely,

Andrew Starr Raymond
Co-Owner – Engage Armament LLC
andy@engagearmament.com

FILED

2021 DEC 10 AM 9:54

TANYA SCHEIDT
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 Case No. 21-CV-00690

2 Dept. No. I

3 The undersigned affirms that this document
4 does not contain the social security number
5 of any individual.

6 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR THE COUNTY OF LYON**

8 POLYMER80, INC.,

9 Plaintiff,

10 vs.

11
12 STEPHEN SISOLAK, Governor of Nevada, AARON
13 FORD, Attorney General of Nevada, GEORGE
14 TOGLIATTI, Director of the Nevada Department
15 of Public Safety, MINDY MCKAY, Administrator
16 of the Records, Communications, and Compliance
17 Division of the Nevada Department of Public
18 Safety,

19 Defendants.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING SUMMARY
JUDGMENT IN FAVOR OF
PLAINTIFF, POLYMER80, INC.**

18 This matter is before the Court upon the parties' competing Motions for Summary Judgment
19 both filed on November 8, 2021, and duly opposed by each party on November 18, 2021. The matter
20 was set for argument on November 23, 2021. Plaintiff was present and represented by Brad
21 Johnston, Esq., of Simons Hall Johnston PC (via Zoom) and James J. McGuire, Esq., (pro hac vice)
22 of Greenspoon Marder LLP, who was present in Court. The Defendants were represented by Craig
23 A. Newby, Esq., Deputy Solicitor General, who was present in Court.
24

25 This Court, having reviewed and considered the parties' respective motions and oppositions
26 for summary judgment, considered the exhibits thereto and arguments therein, conducted a hearing
27 upon those motions, and heard oral argument from counsel for Polymer80 and for Defendants, and
28

1 good cause appearing, makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW,
2 AND ORDERS.

3
4 **I**

5 **PROCEDURAL HISTORY**

6 During the 81st legislative session, the Nevada Legislature passed Assembly Bill 286 (“AB
7 286”). AB 286 is -- “AN ACT relating to crimes; prohibiting persons from engaging in certain acts
8 relating to unfinished frames or receivers under certain circumstances; ... providing penalties; and
9 providing other matters properly relating thereto.” Nevada Governor, Stephen Sisolak, signed AB
10 286 into law on June 7, 2021.

11 On June 22, 2021, Plaintiff, Polymer80, Inc. (“Polymer80”), filed this lawsuit against
12 Defendants, Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of Nevada,
13 George Togliatti, Director of the Nevada Department of Public Safety, and Mindy McKay,
14 Administrator of the Records, Communications, and Compliance Division of the Nevada
15 Department of Public Safety (collectively referred to as “Defendants”), alleging that Sections 3 and
16 3.5 of AB 286 are unconstitutionally vague under the Due Process Clause of the Constitution of the
17 State of Nevada (“Nevada Constitution”). In its Verified Complaint, Polymer80 sought a
18 Declaration from this Court that Sections 3 and 3.5 of AB 286 violate the Nevada Constitution and
19 a Permanent Injunction barring enforcement of the new law.

20 On June 25, 2021, Polymer80 filed its *Motion for Temporary Restraining Order and*
21 *Preliminary Injunction*. After briefing and a hearing, this Court, on July 16, 2021, entered its *Order*
22 *Granting Preliminary Injunction*, preliminarily barring enforcement of Section 3.5 of AB 286.¹ That
23 Order is currently pending appeal at the Nevada Supreme Court.

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28 ¹ At that time, this Court declined to enter a Preliminary Injunction as to the enforcement of AB 286
Section 3, because that portion of the new statute would not go into effect until January 1, 2022.

1 Thereafter, the Court held a Case Management and Scheduling Conference on July 14, 2021,
2 that resulted in a July 15, 2021, *Case Management and Trial Scheduling Order* setting an expedited
3 trial date of November 30, 2021. That Order also provided that the parties could engage in discovery
4 through November 1, 2021, and fixed November 8, 2021, as the deadline for filing dispositive
5 motions. By so ruling, this Court wanted to, and did, afford the parties the opportunity to develop
6 the evidentiary record to be presented upon motions for summary judgment and/or at trial.

7 In the ensuing months, the parties proceeded with discovery. Both Polymer80 and
8 Defendants timely filed Motions for Summary Judgment on November 8, 2021.² Pursuant to the
9 parties' Stipulation, this Court directed that they file their oppositions to the other side's summary
10 judgment motion on November 18, 2021, dispense with reply briefs, and proceed to a full hearing
11 on November 23, 2021. That hearing was held as scheduled and the Court heard substantial
12 argument from the parties. Notably, both parties agreed at that hearing that this Court could decide
13 this case upon the record before it at that point, and that a trial was unnecessary. At the conclusion
14 of the hearing, the Court rendered an oral ruling granting Polymer80 summary judgment. This Order
15 follows and memorializes that ruling.

16 Accordingly,

17 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc., for Summary Judgment* is
18 GRANTED, and that *Defendants' Motion for Summary Judgment* is DENIED, for the reasons set
19 forth herein and on the record at the November 23, 2021, hearing.
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24 ² Before the parties filed their competing Motions for Summary Judgment, Defendants filed an
25 appeal from this Court's *Order Granting Preliminary Injunction*. Thereafter, Defendants filed a
26 Motion to Stay this case in this Court, arguing, among other things, that this matter presented a pure
27 question of law that would be resolved upon their then-pending appeal. This Court denied
28 Defendants stay, largely because the issue on appeal was not the ultimate question of whether or not
AB 286 was and is unconstitutionally vague but whether or not this Court had abused its discretion
in granting interim relief. Moreover, a stay would have only delayed a ruling on the constitutionality
of AB 286, which would not have been in the best interests of either Plaintiff or Defendants.

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II

CONTESTED PROVISIONS OF AB 286

The 81st Nevada Legislature amended Chapter 202 of the Nevada Revised Statutes by adding, among others, the following provisions, which are the subject of this proceeding.

First, Section 3 of AB 286, effective as of January 1, 2022, provides as follows:

1. A person shall not possess, purchase, transport or receive an unfinished frame or receiver unless:
 - (a) The person is a firearms importer or manufacturer; or
 - (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by a firearms importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

2. A person who violates this section:
 - (a) For the first offense, is guilty of a gross misdemeanor; and
 - (b) For the second or any subsequent offense is guilty of a category D felony and shall be punished as provided in NRS 193.130.³

Plainly, this provision makes it a crime to “possess, purchase, transport or receive an unfinished frame or receiver” in the State of Nevada.

Second, Section 3.5 of AB 286, which became effective on June 7, 2021, provides as follows:

1. A person shall not sell, offer to sell or transfer an unfinished frame or receiver unless:
 - (a) The person is:
 - (1) A firearms importer or manufacturer; and
 - (2) The recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or
 - (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

³ NRS 193.130 provides that a category D felony is punishable by 1-4 years in Nevada State Prison and a fine of up to \$5,000.00.

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2. A person who violates this section:
- (a) For the first offense, is guilty of a gross misdemeanor;
- and
- (b) For the second or any subsequent offense is guilty of a category D felony and shall be punished as provided in NRS 193.130

This Section makes it a crime to “sell, offer to sell or transfer an unfinished frame or receiver” in the State of Nevada.

Section 6 of AB 286 amended NRS 202.253 by adding the term “[u]nfinished frame or receiver” to Nevada law and defines that term as follows:

9. “Unfinished frame or receiver” means a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.

Polymer80 argues that Sections 3 and 3.5 of AB 286 are unconstitutionally vague under the Due Process Clause of the Nevada Constitution.⁴

III

STANDARD ON SUMMARY JUDGMENT

Summary judgment is appropriate, where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” NRCP 56(c). While this Court must construe the evidence in the light most favorable to the nonmoving party upon such a motion, the nonmoving party “bears the burden to do more than simply show that there is some metaphysical doubt as to the operative facts in order to avoid

⁴ This decision does not extend to Section 4 or 5 of AB 286 and this Court makes no judgment relating to the efficacy of those provisions.

1 summary judgment being entered in the moving party’s favor.” *Wood v. Safeway, Inc.*, 121 Nev.
2 724, 732 (2005) (quotations omitted). “The nonmoving party must, by affidavit or otherwise, set
3 forth specific facts demonstrating the existence of a genuine issue for trial or have summary
4 judgment entered against him.” *Id.* And, the party opposing summary judgment cannot build a case
5 on the “gossamer threads of whimsy, speculation, and conjecture.” *Id.* (quoting *Bulbman, Inc. v.*
6 *Nevada Bell*, 108 Nev. 105, 110 (1992)). Critically, the Nevada Supreme Court, as the parties have
7 acknowledged, has held that summary judgment is appropriate with respect to, as here, a facial Due
8 Process challenge on vagueness grounds to the constitutionality of a criminal statute. *See Flamingo*
9 *Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 508-09 (2009). As explained below, there are no
10 “genuine issues of material fact” precluding summary judgment, and this Court may properly resolve
11 this action on summary judgment upon the record before it.

12 **IV**

13 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

14 Polymer80 is a Nevada corporation headquartered in Dayton, Nevada, within Lyon County.
15 It manufactures, designs, and distributes gun-related products, components, and after-market
16 accessories. The legislative history reveals that AB 286 has targeted, at least partially, certain of
17 Polymer80’s business products. Defendants have also admitted as much in their Answer and in their
18 moving papers. As set forth in the testimony of Assemblywoman Sandra Jauregui:

19 . . . a Nevada based company, Polmer80, Inc., [is] one of the nation’s
20 largest manufacturers of ghost guns.

21 Minutes, Assembly Committee on Judiciary, p.6 (March 17, 2021). Assemblyman Wheeler stated
22 therein:

23 The kit guns you called ghost guns are used by a lot of hobbyists.
24 Under federal law, those are quite legal, so outlawing them in Nevada,
25 as this bill tries to do, basically puts a company [Polmer80] in my
26 district out of business. . . .
27 We are going to drive a company in my district out of business, but
28 people can still buy them in Kentucky. . .

1 Minutes, Assembly Committee on Judiciary, p.13-14 (March 17, 2021).⁵

2 **A. STANDING OF POLMER80**

3 In Defendants' Answer and at the Motion for Preliminary Injunction hearing, the State of
4 Nevada contested Polymer80's standing to contest the constitutional validity of AB 286. The
5 Defendants' have not argued a lack of standing on summary judgment. However, Polymer80 asserts
6 in their Motion that they indeed have standing.

7 NRS 30.040 provides, in pertinent part:

8 **NRS 30.040. Questions of construction or validity of . . . statutes.**

9 1. Any person . . . whose rights, status or other legal relations
10 are affected by a statute . . . may have determined any question of
11 construction or validity arising under the . . . statute . . . and obtain a
12 declaration of rights, status or other legal relations thereunder.

12 NRS 30.040(1). In Nevada, the issue of Standing is a question of law. *Arguello v. Sunset Station,*
13 *Inc.*, 127 Nev. 365, 368 (2011). As explained recently by the Nevada Supreme Court:

14 The question of standing concerns whether the party seeking relief has
15 a sufficient interest in the litigation. The primary purpose of this
16 standing inquiry is to ensure the litigant will vigorously and
17 effectively present his or her case against an adverse party. Thus, a
18 requirement of standing is that the litigant personally suffer injury that
19 can be fairly traced to the allegedly unconstitutional statute and which
20 would be redressed by invalidating the statute. A general interest in
21 the matter is normally insufficient: a party must show a personal
22 injury.

20 *Flor Morency v Nevada Department of Education*, 137 Nev. Adv. Op. 63, p. 7, 496 P.3d 584 (Oct.
21 7, 2021), (Citations Omitted).

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27 ⁵ This Court notes that there are multiple references to Polmer80 in the legislative history of AB 286
28 all indicating the negative impact of the bill on their ability to conduct business in the State of
Nevada.

1 This Court finds that Polymer80 has standing to mount a facial vagueness challenge to the
2 constitutionality of AB 286. Like the Plaintiffs in *Flamingo Paradise Gaming, LLC v. Chanos*, 125
3 Nev. 502, 508-09 (2009), Polymer80 could be subject to criminal prosecution stemming from its
4 ongoing conduct. Polymer80’s facial challenge to AB 286 is ripe for this Court’s adjudication as
5 Section 3.5 of AB 286 took effect earlier this year upon approval by the Governor and Section 3 of
6 AB 286 takes effect January 1, 2022. Accordingly, it is ripe for this Court to determine whether or
7 not both of those Sections of AB 286 are unconstitutionally vague under the Due Process Clause of
8 the Nevada Constitution.
9

10 Polymer80 satisfies the requirement to show that they would “personally suffer injury that
11 can fairly be traced to the allegedly unconstitutional statute” by facing the prospect of felony
12 criminal prosecution each time they produce a product which allegedly falls under the purview of
13 the statute. Further, Polymer80 would suffer significant economic loss as set forth in the Deposition
14 testimony submitted, and uncontested by the Defendants. This, combined with the legislative history
15 showing that the thrust of the bill was to put Polymer80 out of business, clearly establishes that,
16 unlike any other potential litigant, Polymer80 will vigorously and effectively present the case for
17 facial invalidity of the statute – which is Polymer80’s only true redress.
18

19 This Court determines that Polymer80 will suffer irreparable harm in the absence of
20 declaratory and/or injunctive relief, since, as under *Flamingo*, that harm exists if a Nevadan, such as
21 Polymer80, must conduct its affairs in the wake of criminal jeopardy that fails to provide fair notice
22 of the conduct being criminalized.⁶
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27 ⁶ The Defendants previously argued at the preliminary injunction hearing that Section 3(1)(b) would
28 mitigate any harm as all Polymer80 would have to do is put a serial number on its products. The

1 **B. STANDARD OF REVIEW FOR A FACIAL VAGUENESS CHALLENGE**

2 The question before this Court is essentially whether or not AB 286 is unconstitutionally
3 vague under the Due Process Clause of the Nevada Constitution. It is undisputed that Section 3 and
4 Section 3.5 of AB286 are criminal statutes with penalties being elevated as high as category D
5 felonies.

6
7 Nevada’s Due Process Clause states simply that “No person shall be deprived of life, liberty,
8 or property, without due process of law.” Nev. Const., Art. 1, Sec. 8(2). In Nevada, the determination
9 of whether a statute is constitutional is a question of law. *Silvar v. Dist. Ct.*, 122 Nev. 289, 292, 129
10 P.3d 682, 684 (2006).

11 Statutes are presumed to be valid, and the challenger bears the burden
12 of showing that a statute is unconstitutional. The court must interpret
13 a statute in a reasonable manner, that is, [t]he words of the statute
14 should be construed in light of the policy and spirit of the law, and the
15 interpretation made should avoid absurd results. In reviewing a
16 statute, it should be given [its] plain meaning and must be construed
17 as a whole and not be read in a way that would render words or phrases
18 superfluous or make a provision nugatory.

19 *Flamingo Paradise Gaming v. Att’y General*, 125 Nev. 502, 509 (2009). In reviewing the statute,
20 “every reasonable construction must be resorted to, in order to save a statute from
21 unconstitutionality.” *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010).

22 The Nevada Supreme Court has adopted a two-pronged test for determining whether a
23 criminal statute is so impermissibly vague as to run afoul of the due process clause of the Nevada
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27 argument was abandoned on summary judgment. Section 3(1)(b) and Section 3.5(1)(b) by their own
28 terms only provide relief when the “unfinished” frame or receiver is “required” by federal law to be
imprinted with a serial number. It is undisputed that the products produced by Polymer80 are not
required by federal law to have a serial number imprinted on them.

1 Constitution. See, e.g., *Flamingo Paradise Gaming*, 125 Nev. at 510; *Gallegos v. State*, 123 Nev.
2 289, 294 (2007).

3 A criminal statute can be invalidated for vagueness (1) if it fails to
4 provide a person of ordinary intelligence fair notice of what is
5 prohibited *or* (2) if it is so standardless that it authorizes or encourages
seriously discriminatory enforcement.

6 *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015). Although both civil and criminal statutes
7 are judged under the same test, the Nevada Supreme Court has explained:

8 [T]here are two approaches to a facial vagueness challenge depending
9 on the type of statute at issue. The first approach arises under a facial
10 challenge to a civil statute and the plaintiff must show that the statute
11 is impermissibly vague in all of its applications. In making this
12 showing, [a] complainant who engages in some conduct that is clearly
13 proscribed cannot complain of the vagueness of the law as applied to
14 the conduct of others. **But, when the statute involves criminal
penalties or constitutionally protected rights, the second
approach involves a higher standard of whether “vagueness
permeates the text.**

15 *Flamingo*, 125 Nev. at 512.⁷ Where a statute imposes criminal penalties, as is the case with AB 286,
16 the more exacting standard for Constitutionality is imposed.

17 Under the higher standard, the question becomes whether vagueness
18 so permeates the text that the statute cannot meet these requirements
19 in most applications; and thus, this standard provides for the
20 possibility that some applications of the law would not be void, but
the statute would still be invalid if void in most circumstances.

21 *Flamingo*, 125 Nev. at 507.

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25 ⁷ The Defendants have urged this Court to roll back *Flamingo* and apply the “clearly proscribed
26 conduct” test to this criminal statute as set forth in *Sheriff of Washoe Cty v. Martin*, 99 Nev. 336,
27 340 (1983) (citing *Hoffman Estates v. Flipside, Hoffman Estate, Inc.*, 455 U.S. 489, 495 (1982)). This
28 Court declines to do so as *Flamingo* made clear that under the Nevada Constitution the “clearly
proscribed conduct” analysis applies to vagueness challenges of civil statutes where facial vagueness
challenges need to show that the law is “impermissibly vague in all its applications.”

1 In this Court's view, AB 286, a criminal enactment, fails under both prongs for various
2 reasons resulting in an unconstitutionally vague statute under Nevada Constitutional law. While
3 similar, "the first prong is concerned with guiding those who may be subject to potentially vague
4 statutes, while the second -- and more important -- prong is concerned with guiding the enforcers of
5 statutes." *Silvar v. Dist. Ct.*, 122 Nev. 289, 293, 129 P.3d 682, 685 (2006).

7 **C. SECTIONS 3 AND 3.5 OF AB 286 FAIL TO PROVIDE A PERSON OF ORDINARY**
8 **INTELLIGENCE FAIR NOTICE OF WHAT IS PROHIBITED**

9 Section 3 and Section 3.5 of AB 286 fail to provide a person of ordinary intelligence with
10 fair notice of the conduct which it proscribes. The underlying purpose of this factor is to give a
11 person "notice of the law so they can conform their conduct to its requirements." *Gallegos v. State*,
12 123 Nev. 289, 295 (2007). Those sections of AB 286 criminalize the possession, purchase, transport,
13 receipt, transfer and sale of what the statute calls an "unfinished frame or receiver." While AB 286
14 purports to define the term "unfinished frame or receiver," that definition is as follows:

15 [A] blank, a casting or a machined body that is intended to be turned
16 into the frame or lower receiver of a firearm with additional
17 machining and which has been formed or machined to the point at
18 which most of the major machining operations have been completed
19 to turn the blank, casting or machined body into a frame or lower
receiver of a firearm even if the fire-control cavity area of the blank,
casting or machined body is still completely solid and unmachined.

20 This definition does not provide a person of ordinary intelligence with adequate notice of
21 what AB 286 criminalizes.

22 As stated above, the crimes established in Section 3 and 3.5 are purely the result of Nevada
23 legislative statutory enactment. The terms used in the definition of "unfinished frame or receiver"
24 are not defined elsewhere in the statute. These terms include - blank, casting, machined body,
25 machining, major machining operations, frame or lower receiver of a firearm, and/or fire-control
26 cavity area.

27 The definition does not tell anyone when during the manufacturing process a blank, casting,
28 or machined body (whatever those terms mean) has gone through the "major machining operations"

1 (whatever those are) to turn that blank, casting, or machined body into a frame or lower receiver of
2 a firearm (whatever that may be), a person of ordinary intelligence could not proscribe their conduct
3 to comply with the law. As a result, this Court finds that the text of AB 286 does not provide fair
4 notice of whatever it criminalizes. To this end, this Court asked on multiple occasions during oral
5 argument on the Motion for Summary Judgment what those terms as used in AB 286 mean.
6 Tellingly, the Defendants could not in any manner explain their meaning(s).

7 This Court inquired whether or not the common law defined the terms used in AB 286, and
8 the response that this Court received was clearly in the negative. As such, this Court cannot use the
9 common law to decipher, clarify, or define the inherently vague terms of AB 286. This fact
10 distinguishes this case from *State v. Castaneda*, 126 Nev. 478 (2010)(Common Law definition of
11 indecent exposure – a common law crime), where the Nevada Supreme Court found that that the
12 common law can provide a definition as to what conduct a statute prohibits. This Court inquired as
13 to whether any other Nevada statutes or Nevada case law defined the terms found in AB 286 and,
14 again, the answer was no. As a consequence, this case is also distinguishable from *Silverwing*
15 *Development v. Nevada State Contractors Board*, 136 Nev. Adv. Rep. 74, 476 P.3d 461 (2020),
16 (Commonly accepted definition of “subdivision” contained within the State’s planning and zoning
17 statutes) where the Nevada Supreme Court rejected a vagueness challenge, when Nevada law
18 elsewhere defined an allegedly ambiguous term. Thus, neither the common law nor any other
19 Nevada statutes or authorities define or clarify the vagueness that permeates the text of AB 286.

20 While portions of AB 286 incorporate certain terms that are defined in federal legislation,
21 this Court cannot imply that the Nevada Legislature wanted to incorporate all the existing federal
22 definitions relating to firearms or the Gun Control Act into AB 286. Here, the Nevada Legislature
23 purposely included some federal definitions into AB 286 but, deliberately did not include others.
24 From that fact, this Court can only conclude that the Nevada Legislature purposely did so absent
25 some legislative declaration to the contrary. Simply put, had the Nevada Legislature wished to
26 incorporate other federal definitions into AB 286, it knew how to do so and would have done so. It
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1 did not. And so, this Court will not do what the Nevada Legislature deliberately declined or failed
2 to do.⁸

3 In *Gallegos v. State*, 123 Nev. 289 (2007), the Nevada Supreme Court was faced with the
4 same dilemma. In *Gallegos*, the legislature criminalized the possession of firearms by a “fugitive
5 from justice.” The legislature failed to define what the term “fugitive from justice” meant in relation
6 to the statute. The District Court upheld the validity of the statute and applied the federal definition
7 of “fugitive from justice” into the statute to provide meaning. The Nevada Supreme Court reversed
8 stating:

9 Unlike Congress, the Nevada Legislature has not defined “fugitive
10 from justice.” By failing to adopt the federal definition of “fugitive
11 from justice” or include any definition of that phrase. . . , the
12 Legislature failed to provide the public with statutory notice of what
13 that term means. It could arguably encompass a wide variety of
14 circumstances. . . The fact that the district court, sua sponte, adopted
15 the 18 U.S.C. § 921(a)(15) definition in this case does not remedy that
16 deficiency.

17 *Gallegos v. State*, 123 Nev. @ 294-95.

18 Finally, the legislative history of AB 286 does not shed any light on the undefined terms used
19 in AB 286 nor the meaning of “unfinished frame or receiver.” To the contrary, that history illustrates
20 that the State Legislature received comments during the legislative process that AB 286 was vague,
21 and that the definition of “unfinished frame or receiver” was particularly uncertain. Rather than
22 address the issue through comments or revising the text of AB 286, the Nevada Legislature remained
23 silent. Thus, the legislative history does not aid this Court in unearthing the meaning of the vague

24 ⁸ The Defendants have proposed two separate definitions for the Court to “imply” into the statute to
25 define what a Frame or Receiver is. Both definitions differed substantially. Federal Law (27 CFR §
26 478.11) defines “firearm frame or receiver” as “that part of a firearm which provides housing for the
27 hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward
28 portion to receive the barrel.” The Defendants’ second proposed definition comes from the Glossary
of the Association of Firearm and Toolmark Examiners defining “frame or receiver” as “the finished
part which is capable of being assembled with other parts to put together a firearm.”

1 and undefined terms used in AB 286. It is noteworthy that the parties agreed that the legislative
2 history for AB 286 gives this Court no information to determine what the Nevada Legislature meant
3 when adopting and implementing the definition of “unfinished frame or receiver.” Tellingly, not
4 even Webster’s Dictionary defines a majority of these terms.

5 Defendants contend that since AB 286 includes a *scienter* element, the statute is not void for
6 vagueness. This Court finds this contention unpersuasive. The criminal acts defined in Sections 3
7 and 3.5 of AB 286 do not contain a *scienter* element, as they criminalize, among other things, the
8 possession and sale of “unfinished frames and receivers,” whatever those things may actually be.
9 And, the person possessing or selling those “unfinished frames and receivers” need not have any
10 particular specific intent. In fact, AB 286 only and very generally employs intent in the definition
11 of “unfinished frame or receiver,” stating an “unfinished frame or receiver” is “a blank, a casting or
12 a machined body that is *intended* to be turned into the frame or lower receiver of a firearm.” The
13 use of the word “intended” in this definition does not create the *scienter* element defendants claim
14 to exist within Section 3 and Section 3.5 of the bill.

15 Here, a literal reading of the definitional statute requires that the blank, casting or machined
16 body (all inanimate objects) be intended to be turned into the frame or lower receiver of a firearm.
17 Nowhere in the definitional statute does it indicate who would have to have intended the unfinished
18 frame or receiver to be transformed into a firearm. Is it the manufacturer like Polymer80? It is
19 undisputed that it is their intent not to make a firearm. Is it the seller of a gun kit? They have no
20 intent to make a firearm. The object itself cannot transfer specific intent to the possessor of the item.

21 Even if this Court were to assume an intent element was specifically meant to apply to any
22 individual purportedly violating Section 3 and 3.5, the statute would still be unconstitutionally
23 vague. For example, if Section 3 criminalized the possession of a blank, casting, or machined body
24 only if the person who possessed such an item (whatever it might actually be) specifically intended
25 to turn it into the frame or lower receiver of a firearm with additional machining, AB 286 would still
26 be unconstitutionally vague.

27 In this regard, the statute is expressly conjunctive, such that the blank, casting, or machined
28 body must: (i) be intended to be turned into the frame or lower receiver of a firearm with additional

1 machining, and (ii) already be formed or machined to the point at which most of the major machining
2 operations have been completed. Yet, none of these terms are defined, nor is there any way to know
3 when “most of the major machining operations have been completed,” and then what “additional
4 machining” must still occur and when. Accordingly, any specific intent that can be read into
5 Sections 3 and 3.5 of AB 286 does not salvage the statute, because, even with an intent element, AB
6 286 still fails to provide adequate notice as to what it specifically criminalizes.

7 Sections 3 and 3.5 of AB 286 create a new crimes that do not exist under federal law or
8 common law. Consequently, the only notice of what AB 286 criminalizes is provided in the statute
9 itself. However, the law does not provide adequate notice of what it criminalizes, given that the
10 definition of “unfinished frame or receiver” uses a myriad undefined terms. Moreover, the combined
11 use of these undefined terms results in an overall failure to provide a person of ordinary intelligence
12 with fair notice of what is criminalized. As there is no well-established or ordinary meaning to the
13 terms used in AB 286, Section 3 and Section 3.5 are unconstitutionally vague under the Due Process
14 Clause of the Nevada Constitution.

15
16 **D. SECTIONS 3 AND 3.5 OF AB 286 ARE SO STANDARDLESS THAT IT**
17 **AUTHORIZES OR ENCOURAGES SERIOUSLY DISCRIMINATORY ENFORCEMENT**

18 This Court now turns to whether AB 286 “is so standardless that it authorizes or encourages
19 seriously discriminatory enforcement.” *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015).
20 The Court finds that it is.

21 As explained by the Nevada Supreme Court:

22
23 The concern under this prong is the scope of discretion left to law
24 enforcement officials and prosecutors. Our fear is that absent adequate
25 guidelines, a criminal statute may permit a standardless sweep, which
would allow the police, prosecutors, and juries to ‘pursue their
personal predilections.’

26 *Gallegos*, 125 Nev. @ 296. (Citation Omitted)

27 AB 286 fails to establish clear standards that law enforcement can use to determine whether
28 the law is violated. At its most basic, there is no clear standard for law enforcement to use to

1 determine when an “unfinished frame or receiver” comes into existence. Unlike the federal
2 regulatory process to determine whether a frame or lower receiver is considered a firearm under the
3 Gun Control Act, Nevada has established no authority at all to determine when an “unfinished frame
4 or receiver” actually comes into existence. The most any court can glean from the definition is that
5 it is something less than a firearm and more than a block of raw material. Where on the scale in
6 between both extremes the ill-defined “unfinished frame or receiver” lands is unknown under the
7 law and left to the sole discretion of law enforcement and prosecutors. When does the machining
8 process start? When does the raw material become machined and through what processes? What
9 constitutes a “major machining operation” versus machining itself? Would the “fire-control cavity”
10 be considered a “major machining operation” or is it excluded? What additional machining needs to
11 be completed? It is unclear and undefined under the statute.

12 Nevadans would face the risk of discriminatory enforcement by police and prosecutors alike
13 as they, in their sole discretion and without guidance, could label almost anything an “unfinished
14 frame or receiver,” if it in any way even resembles a firearm’s undefined frame or lower receiver.
15 There is no clear statutory language to bridle that discretion or to prevent state actors from pursuing
16 their personal predilections.

17 Ordinary Nevada citizens are at risk of arbitrary and discriminatory enforcement of Section
18 3 and 3.5 of AB 286 owing to the vagueness that permeates the text of the law. Therefore,
19 enforcement of AB 286 is standardless to such a degree that it authorizes and/or encourages arbitrary
20 and discriminatory enforcement.

21 For this additional reason, the Court finds that Sections 3 and 3.5 of AB 286 are
22 unconstitutionally vague under the Nevada Constitution’s Due Process Clause.

23 **V**

24 **ORDER AND JUDGMENT**

25 Based upon all of the foregoing, the Court finds that Section 3 and 3.5 of AB 286 are
26 unconstitutionally vague, insofar as the law: (i) fails to provide a person of ordinary intelligence
27 with fair notice of the conduct that is prohibited, and (ii) is so standardless that it authorizes and
28 encourages seriously arbitrary and discriminatory enforcement.

1 Good cause appearing,

2 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc, for Summary Judgment* is
3 GRANTED.

4 IT IS HEREBY FURTHER ORDERED that *Defendants' Motion for Summary Judgment* is
5 DENIED.

6 IT IS HEREBY FURTHER ORDERED that a Declaratory Judgment be entered in favor of
7 Polymer80 and against Defendants; to wit,

8 IT IS HEREBY FURTHER ORDERED, DECREED AND DECLARED that Section 3 and
9 Section 3.5 AB 286 are unconstitutionally vague and violate the Due Process Clause of the Nevada
10 State Constitution.

11 IT IS HEREBY FURTHER ORDERED that a Permanent Injunction be entered in favor of
12 Polymer80 and against Defendants; to wit,

13 IT IS HEREBY ORDERED that the State of Nevada and Defendants, STEPHEN SISOLAK,
14 Governor of Nevada, AARON FORD, Attorney General of Nevada, GEORGE TOGLIATTI,
15 Director of the Nevada Department of Public Safety, MINDY MCKAY, Administrator of the
16 Records, Communications, and Compliance Division of the Nevada Department of Public Safety,
17 and their respective successors, officers, agents, servants, and employees and anyone acting in
18 concert with them, individually and/or collectively, are hereby permanently enjoined from enforcing
19 Section 3 and Section 3.5 of AB 286.

20 IT IS HEREBY FURTHER ORDERED that the security Polymer80 previously posted with
21 this Court pursuant to NRCP 65(c) in the amount of \$20,000.00 (Twenty Thousand Dollars) be
22 exonerated and released to Polymer80 forthwith.

23 THIS IS A FINAL JUDGMENT.

24 DATED this 10th day of December, 2021.

25
26
27
28


JOHN P. SCHLEGELMILCH,
DISTRICT JUDGE

1 Case No. 21-CV-00690

2 Dept. No. I

3 **Certificate of Mailing**

4 I hereby certify that I, Andrew C. Nelson, am an employee of the Third Judicial District
5 Court, and that on this date pursuant to NRCP 5(b), a true copy of the foregoing document was
6 mailed at Yerington, Nevada addressed to:

7 Gregory L. Zunino, Esq.
8 *Emailed: gzunino@ag.nv.gov

9 Brad M. Johnston, Esq.
10 *Emailed: bjohnston@shjnevada.com


11 James J. McGuire, Esq.
12 *Emailed: james.mcguire@gmlaw.com

13 Michael Patrick, Esq.
14 *Emailed: michael.patrick@gmlaw.com

15 Mark Doerr
16 *Emailed: mark.doerr@gmlaw.com

17 Craig A. Newby, Esq.
18 *Emailed: CNewby@ag.nv.gov

19 DATED: This 16th day of December, 2021.

20
21 
22 Employee of Hon. John P. Schlegelmilch
23
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28

SB0387_brownmj_unf.pdf

Uploaded by: Michael Brown

Position: UNF

February 15th, 2022

Michael J. Brown

37 Sierra Lane, Arnold MD 21012

Honorable members of the Maryland State Senate, on the topic of SB0387 “Public Safety – Untraceable Firearms” I aim to provide testimony against the proposed bill.

I am a mechanical engineer by trade, and a hobbyist in privately-made firearms. I am a legal gun owner, and I have a state issued Handgun Qualification License. I am fascinated by the history of firearms innovation, and I greatly appreciate the freedom to learn and challenge myself in the design and manufacture of novel firearms.

I understand that any firearm I create is bound by many state and federal firearms laws. The sale or gifting of any privately made firearm (unless serialized by a Federal Firearm Licensee [FFL]) is already a federal felony.

SB0387 is highly concerning to me because it bans the possession of privately-made unserialized firearms after January 1st, 2023. To continue my hobby I would be required to serialize any firearm I create. The bill does not mention the amount of time allotted between the creation of a firearm and the serialization of said item. If I create a firearm on Friday, but the FFL is not open until Monday, am I a felon for the weekend?

Furthermore, engraving of serial numbers to the federal standard is a difficult process that requires an expensive engraving machine. I am concerned that FFL's will not be willing to serialize my firearms due to the risk of liability to them, should there be some unfortunate mishap following serialization.

Finally, I find the benefit to the safety of the public of criminalizing privately-made firearms to be very small. The Justice Department reported recently that between 2016 and 2020, firearms without serial numbers were linked to 325 homicides or attempted homicides. That means about 80 homicides & *attempted homicides* per year in the entire country are linked to unserialized firearms, many of which are likely not privately-made but factory-made with serial numbers ground off. This is a very small fraction of the approximately 20,000 gun-related homicides in the US each year.

Thank you for your consideration on this matter.

Respectfully,

Michael J. Brown

MFB - Testimony on HB 485 and SB 387.pdf

Uploaded by: Michael Burke

Position: UNF



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.

MSRPA Opposes SB387-2022.pdf

Uploaded by: Mike Doherty

Position: UNF



Bill Number:	Senate Bill 387
Bill Title:	Public Safety – Untraceable Firearms
Position:	UNFAVORABLE

Date: 15 FEB 2022

This country has long held a tradition for personally-built firearms since prior to its inception as a nation.

This bill is, yet again, a misguided and heavy-handed attempt at assigning blame for the level of violence plaguing our state squarely on the backs of the law-abiding citizenry while doing nothing to actually quell said violence. There are already laws on the books, at both the State and Federal levels, that could be leveraged to punish the criminal element responsible for violence using firearms, but the Attorney General and the various State's Attorneys fail to leverage those laws, preferring to blame and criminalize law-abiding citizens.

MSRPA strongly objects to the after-the-fact criminalization of an activity that has been enjoyed by responsible, law-abiding citizens of the state of Maryland since the founding of our great nation.

V/r,

Michael J Doherty

Chair of the Board of Directors

2nd Vice President – Legislative Affairs

Senate Bill 387.pdf

Uploaded by: Nicholas Andraka

Position: UNF

Senate Bill 387 (untraceable firearms) – OPPOSE

Nicholas Andraka
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I strongly oppose SB387 in its current form for many reasons:

- 1) The Bill has zero penalties for the repeat violent felon caught with an “un-serialized firearm”, that the bill’s sponsors and their allies claim are the problem being addressed with this bill.
- 2) The Bill would criminalize current lawful gun owners and the classification of a misdemeanor punishable by 3 years would strip lawful gun owners of their rights for life.
- 3) The Bill puts an undue burden on lawful gun owners, and sometimes an impossible burden as there is no avenue/system/law for an FFL to engrave a lawful gun owner’s firearm.

It is very clear that this proposed Bill was not designed to restrict or persuade the violent felon from obtaining and using an “un-serialized firearm” while committing a murder, robbery, or attack on police. Does anyone believe that the threat of a misdemeanor charge added to multiple felonies would deter them??

The Bill would make many thousands of lawful gun owners’ criminals and strip them of their right to own firearms. There is no avenue where MD FFL dealers can/will engrave serial numbers on firearms. And in many (most?) cases, the lawful hobbyist builder has ALLREADY engraved their firearm themselves, making it impossible for a 3rd party to engrave that firearm.

It is curious that those putting this bill forward and supporting it,, are the very people that have supported legislation that REDUCES penalties for violent felons who use firearms in crimes, supported legislation that enables lawlessness, And put violent felons back into communities, then turning around and using those crime statistics to push legislation that restricts LAWFUL, productive gun owners?

I would support this legislation if the following changes were made:

- 1) Allow the private builder to engrave their own firearm, as many have already when they built them.
- 2) Reduce the penalty for possession to a civil charge, in a case where it is not used in a crime, but just an otherwise lawful gun owner in possession.
- 3) Add a penalty of 10-20 years for possession by a restricted person using an un-sterilized firearm in the commission of a felony.

This legislation in its current form, does not even pretend to address the use of un-serialized firearms in violent crime, but is clearly intended to “criminalize” lawful gun owners in the state of Maryland,
Therefore I OPPOSE SB387.

Nicholas Andraka.

SB387_Nicholas_DeTello.pdf

Uploaded by: Nicholas DeTello

Position: UNF

Nicholas DeTello

SB387 Public Safety – Untraceable Firearms

Unfavorable

2/16/2022

I am a student, Eagle Scout, family man, as well as a Civil Rights Enthusiast. I have voted independently, am currently registered as a Libertarian, and I have a diverse set of views (some left, some right). These include but are not limited to: social justice, limiting abuse of police power, protection of minority groups (such as my direct LGBT family) and decriminalization of victimless crimes (drug possession, exercising civil rights, etc.). I am also a firearms owner that will be impacted by this bill, and I urge an unfavorable report of Senate Bill 387.

If you pass this bill, it will be impossible for me to comply; the requirements of the bill would force me to destroy firearms I use to protect my family. In testimony for the House Bill, AG Brian Frosh made it clear his target was 80% polymer handgun kits, he did not acknowledge other types of homemade firearms, even when prompted. This bill targets **all** homemade guns however, including 3D printed guns. 3D printed guns are not designed to be modified with drills and serialized metal plates. Please see Figure 1 below for an example of what this bill would do to 3D printed firearms.



Figure 1 - Layer Line fracture

As can be seen above, modifying part of the frame could damage the firearm. The potential for botched serializations will be very high on any homemade firearm, but especially so for 3D printed guns which

depend heavily on adhesion between layer lines. The bill does not provide any research or insight as to how serialized metal plates would be bonded to the firearm by an FFL, the likelihood of damage to the homemade firearm, or if FFLs are even *willing* or *able* to perform this service, obviously at cost (travel time, fees) to the gunowner who's just trying to not be jailed for possession. There is no compensation for firearms destroyed by attempted serialization at an FFL, who would likely not want to engage in such a modification in the first place. That's assuming the gunowner could afford to serialize **all** their homemade guns, or even **know** to act on this legislation (within the bill's short timeframe) in the first place.

Assuming the bill passes as is, knowingly ignoring the above issues, the bill also completely disregards the cost in time, money, and effort it takes to build and design homemade firearms. It's a one-size-fits-all bill, even though it was claimed to reactionarily target "parts kits" (which in their own right still take time and effort to build). Many other homemade firearms take weeks, even months, to build from blocks of metal, spools of plastic threads. Some technical-minded people have even designed their own guns from scratch in CAD modeling software, which is a very timely process. Sometimes homemade guns go through several iterations or prototypes, it's not always an easy or straight-forward process. Inventors/designers will often create one-of-a-kind designs that bring new life to old parts sitting in a factory warehouse. This is what makes the outright-ban on manufacturing post 1/1/2023 so painful; some of us have dedicated hundreds, if not thousands of hours to homemade firearms; this bill is targeting and destroying a massive part of people's lives, and snuffing out innovation in the firearms market.

One of the most pertinent issues with the bill is going to be how it's enforced. Just this last year there were many calls to reform police authority; would this bill not put another tool in the officer's belt to enforce the law unjustly? Who would be more likely to be targeted by this bill – gunowners below or near the poverty level in over-policed areas, or those with more privilege? Per the below link there are over 18,000 imprisoned in Maryland, many for victimless crimes made-up by overly zealous crime bills (i.e., drug possession, gun possession, etc.):

<https://worldpopulationreview.com/state-rankings/prison-population-by-state>

This is also following a year with record gun ownership, especially among left leaning voters, and women. To make **real** change in our state there needs to be reform in how laws are enforced, like requiring body cameras on police officers, repealing qualified immunity, and sorely needed bills that decriminalize victimless crimes such as drug use; focusing on rehabilitation, especially for the mentally ill, impoverished, and commonly targeted minority communities.

Another issue with the bill is that it contradicts promises members of the Maryland General Assembly made in the past, to focus on rehabilitation over incarceration. Members of the MGA,

specifically in this case the Senate, would not condone such hefty punishments on any other bill. Why is such a heavy punishment necessary (three years and/or a fine of up to \$10,000 **per firearm**)? Why is the punishment so much harsher than it was last year, where the first offense was just a civil one with a simple fine, no jail time? Why are we punishing gunowners for possession of a homemade firearm in the first place, when the gunowner likely already went through a lengthy and invasive licensing process for the HQL (fingerprinting, training, registration), and has multiple registered handguns?

To compound the issue with punishment, why does the punishment pale in comparison to *theft* of a handgun, which is only 30 days? Why would a criminal even consider homemade firearms when he could just steal a gun and *at worst* be in and out of jail a month later? Why are there always rushed attempts to force through some form of this bill, like last year's complete rewrite of SB190? Why not wait for ATF's rulemaking on the Federal level? Why do gunowners get slogged with bills like this one, or the long gun transfer bill that passed last year (which did nothing to address crime)? Please don't let history repeat itself, by punishing possession of a naughty object the state doesn't approve of, instead of actual criminal acts.

To conclude, there are many reasons to not vote favorably on this bill. It will be enforced unfairly and most likely be used as a tool to fill prisons with those who committed victimless crimes; we can only guess at what groups of people will be targeted by this unfair bill. It penalizes gunowners and hobbyists with unnecessary and vindictive burdens when these people are staying clearly well within existing law. And perhaps most dangerous, the bill if passed would just be adding yet another mine to the minefield of laws only meant to entrap gunowners, not criminals.

For these reasons I urge you to vote unfavorably on Senate Bill 387.

A handwritten signature in black ink that reads "Nicholas DeTello". The signature is written in a cursive, slightly slanted style.

Nicholas DeTello

2422 Clydesdale Rd Finksburg Md 21048

ndetello@hotmail.com

SB0387_Osiris Sanchez_UNF.pdf

Uploaded by: Osiris Sanchez

Position: UNF

Bill: SB0387

Name: Osiris Sanchez

Position: Unfavorable

It is my belief, as an American citizen, that this new legislation would impact my freedoms. I am a citizen of the state, a state which has restricted more and more my liberties in other areas of life and is now considering restricting them further. Criminals do not care if they break the law, they do not pay the taxes, they do not pay the fines, they do not get the training, they do not protect in times of need. I'm a law-abiding gun owner, I pay my taxes, I pay to get training. This is yet another under hardship on my finances and infringement that will lead to me having to pay more for you to acknowledge my God-Given Right.

As comment ID [ATF-2021-0001-66927](#) puts it "For decades, the ATF encouraged hobbyists to fabricate firearms in their homes - with definitions which multiple federal courts have found have excluded their work from both statutory and regulatory definitions of "firearms" and "receivers." "

Crime will not go down because of a serial number requirement, felons have long since filed off or simply not cared about the serial number.

It would be more beneficial to focus on ensuring that citizens have the means and opportunity to defend and protect themselves. To inform the criminal that you, as a state, have the back of your citizens and they have the tools to defend themselves. That you will stand with the father that gets woken up by an intruder at 3 am and defends himself, that you stand with the mother that conceals or open carries while she runs errands with her children. That you stand with the men and women that have the means to protect themselves and those around them when a mass shooting occurs.

Instead, you have, by your actions, stated to me and those around me that you, the state, stand by the criminal, you have told the criminal that you have disarmed your citizens, you have told them that they will not face harsh punishment, you have told them that you have relaxed their fines. You have told them that you will prosecute your citizens for their crimes.

I'll leave you with this. Further restricting guns for law-abiding citizens puts more power in the hands of the criminal and the law-abiding citizen pays for it. You are ruining our ability to defend, our way of life, and our ability to operate as an independent entity.

A citizen who actually cares,

Osiris Sanchez

As a gun owner, I enjoy the building and engineeri

Uploaded by: Patrick Gentry

Position: UNF

As a gun owner, I enjoy the building and engineering of firearms. It is an interesting hobby that includes great people. Since the beginning of this Country people have enjoyed making firearms in the privacy of their own homes. Everyone I know that deals with building firearms follow Maryland state law and ensure compliance throughout their build, as do I. There are many of these homemade firearms in the hands of Marylanders that are legal and safe. I do not think that adding more regulations for the entire state is going to fix the issue of gun violence in Baltimore city. By banning 50 years worth of home builds you will put many Marylanders at risk of becoming a "criminal" simply because they have a collection of firearms that they have built, or maybe have had passed down in their family.

The bill as written puts a straight ban on homemade firearms that are now in legal possession. This violates the 2nd amendment of the US Constitution, the "right to keep and bear arms." As well, serializing these gun would also violate federal law since the FFLs are not the manufacturer of the weapon and don't have a manufacturer license. They would not be allowed to serialize it since they didn't build it. Also in today's supply chain and manufacturing crisis engraving machines are expensive and difficult to come by. It gives these hard working, local, small business owners a very short window to buy these machines and set them up and only to use them for 6 months. Another thought is the cost to the us is still unknown and the wait times could exceed the estimated 6 months.

I graduated a gunsmithing course in January of this year. I worked hard building what I have, and I have done my research and followed Maryland law to build my collection

into compliant weapons. A lot of my money and my time has gone into this, and I don't think it's right that I'm being punished because crime in Baltimore city can't be controlled. Maryland extends to more than just the metro area. It's about time we start talking to each other and tackle this issue together instead of listening to a one sided, anti-gun agenda.

As a life long Maryland resident and veteran who has served this great nation and state, I strongly oppose this bill. I will leave this state, as I'm sure many fellow veterans will, if my rights as a gun owner continue to be stripped away.

Patrick Gentry
805 Washington rd
Westminster MD 21157
[443-878-8593](tel:443-878-8593).

SB387.pdf

Uploaded by: Patrick Upman

Position: UNF

NAME: Patrick UpMan

HOME ADDRESS AND ZIP CODE: 1221 Birch Ave 21227

PHONE NUMBER: 4109215910

Hello,

I hope you are well. I am writing to ask that you vote against sb387. The right to build, maintain, and use firearms is a necessity for the up keep of a well regulated militia. Not only is this stated in our constitution it is ingrained in who we are as Americans. As it is impossible to 3d print a 100% functional firearm, I see no reason for the government to restrict the ability of the people to print parts which improve the quality of the firearm or are cosmetic in nature. The people should have the right to design and print parts, just as they have the right to purchase them. This bill does nothing more then arbitrarily restrict the rights of Marylanders, forcing reliance on manufacturers while inhibiting self reliance and ingenuity. Furthermore this bill is unenforceable as it is not currently possible to track who is printing what. I am all for sensible gun control measures but this is nothing more then grandstanding and ignorance of how 3d technology functions. Again I ask that you vote against sb387. Thank you for your time and consideration.

RJH SB387 UNF.pdf

Uploaded by: Russell Hinkle

Position: UNF

Russell J. Hinkle
SB387 Public Safety – Untraceable Firearms
Unfavorable
2/16/2022

According to this bill, titled SB387 "Public Safety - Untraceable Firearms", if the receiver was not originally produced and engraved by a manufacturer holding Federal Firearms License (FFL) type 07 or type 10, which are the only types of manufacturing licenses. If any other FFL performed the engraving service to be in compliance with this bill, the firearm is in violation of this bill as is currently written. This bill will also require any FFL willing to perform compliance measures for this bill to break federal law if a serial number is already present.

According to 18 U.S.C. § 922(k); "It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in*interstate or foreign commerce."

The National Firearms Act (NFA) requires that a legally-registered short-barreled rifle (SBR) must have a serial number in order to be legally federally registered. The ATF treats the person who is not federally-licensed who is legally applying to construct a SBR as the manufacturer of the SBR. The legal applicant's name therefore must be engraved on to the frame or receiver of the SBR to be in compliance with 27 CFR § 478.92.

This bill requires specific serial number parameters to be engraved- "with the first three and last five digits of the licensee's federal firearms license number, followed by a hyphen, and then followed by another number". A previously engraved and federally-registered serial number on any home-made frame or receiver will not be in compliance with this bill, and any attempt by the FFL to bring the frame into compliance would be "defacing" a serial number in direct violation of 18 U.S.C. § 922(k).

In short, in order to comply with this state law, an individual must violate federal statute. There is also no legal recourse to effectively comply with this bill for the following reasons:

1. Unless an individual is a "Federally Licensed Manufacturer or Importer" they are not the manufacturer according to the state, regardless of their federally-legal NFA lower, thus are in violation of this bill
2. Unless an individual is a "Federally Licensed Manufacturer or Importer", they may not engrave a serial number, regardless of a federally-legal NFA lower, thus an individual is in violation of this bill as only an FFL-07 or FFL-10 may do so, but they would be defacing an existing serial number and thus in violation of 18 U.S. Code § 922

3. Per 18 U.S. Code § 922, unless an individual is a "Federally Licensed Manufacturer or Importer", they will not have a valid FFL to engrave the "first three and last five digits" of their FFL number to make part of the serial number, regardless of their legal NFA lower, thus an individual is in violation of this bill despite being federally-legal

4. No FFL may alter an existing US-made serial number or legal NFA lower's serial number, thus the federally-legal NFA lower would not be in compliance with state law and there is no avenue to be in compliance other than to surrender or destroy their federally-legal NFA lower

This bill will do nothing but criminalize law-abiding gun owners and gun enthusiasts and put already federally-registered firearms in legal jeopardy in direct opposition to federal statute.

I strongly urge an unfavorable report from the committee.

WRITTEN TESTIMONY SCOTT GREGORY DAVIS UNFAVORABLE

Uploaded by: Scott Davis

Position: UNF

February 15, 2022
Scott Gregory Davis
8 Willard Street, Unit 2
Hagerstown, MD 21740

WRITTEN TESTIMONY REQUESTING AN UNFAVORABLE REFORT TO SB 387

I appreciate the opportunity to present my testimony in opposition to SB 387 to the members of this committee this afternoon.

If this bill becomes law then I am offered 2 ways to comply. One is to sell the 80 percent firearm(s) to a licensed FFL. The other is to get a licensed FFL to serialize an 80 percent receiver(s) by the beginning of the 2023 year. "Just put a serial number on it" is the phrase that I keep hearing from the same legislators time and time again. I want these legislators to know that I have contacted every FFL in the Washington County area, Frederick County Area, Allegany County area and the Garrett County area. I asked them if they would perform the engraving services for an 80 percent build or if they would purchase an 80 percent build. All FFL's answered with a hard "**NO**". This means that I am left with no way to comply except to destroy any 80 percent build that I may have.

There is a third option that is not listed in the bill. I live in a part of the state where I can drive 10 minutes North and live in Pennsylvania or I can drive 10 minutes South and live in West Virginia. I have chosen the latter option. I am taking my business, my family and tax dollars and I am moving to a state where lawmakers do not make criminals out of ordinary, law-abiding citizens because of one major city in the state that has a crime problem that is out of control.

The legislators of the MGA have forced me, a 51 year old lifetime resident of this state, to move to West Virginia where I no longer have to worry about anti-gun ideologues in the form of senators, representatives, attorney generals, mayors and out of state lobbyists that are bent on turning me into a criminal year, after year, after year. This is the third year that a ghost gun bill has come before the committee and it is the third time that I have had to take the time to tell everyone that I am not a criminal. ***Law abiding gun owners are tired of being the Maryland General Assembly's scapegoat for gun crime.*** The problem is not hobbyists.

After I move out of this state, I am still going to take the time each year to fight anti-gun agendas in the Maryland General Assembly, I am just doing it from a much safer place. I will always consider this home even though it has been invaded by other people outside of the state who craft legislation and come here to Maryland to tell us how they think we should live our lives. I am certainly tired of my tax dollars going to people that think I should be behind bars because I own a gun that I built myself.

How many innocent, law abiding lives does this panel find acceptable to ruin with stiff punishments, heavy fines and jail time by passing this bill? There are going to be far more law abiding people caught in this trap vs the virtually non-existent criminal activity that happens with these types of firearms. How

many people can you statistically find that have used any of the types of guns that are outlined in this bill for criminal activity in the State of Maryland? I prefer that we focus on the severe crime problems that we already have instead of focusing on the anticipation of something that has not happened or very rarely occurs. When the batter hits the ball to left field, the MGA goes to right field trying to find the ball. This bill is ineffective in many ways.

It does nothing to stop homicides and suicides. Criminals do not follow the law. Even if all guns were banned and confiscated in this state, it will not change the mentality of the people that are committing homicides.

I quote the Democratic Chair in the House of Representatives as saying, "You can't just pass a bill and say, OK, crime is solved". – Baltimore Sun 2/21/2020

This is a very logical statement and I agree wholeheartedly. This statement was not in regards to this bill but this same reasoning applies to this bill, HB 425. We can't just pass this bill and say, OK crime is solved. I do not understand why we, as a whole, are not applying this same logic when it comes to lawful abiding gun owners that enjoy building our own firearms for lawful purposes. This is just another bill that punishes home gun builders by creating criminals out of law abiding citizens.

When is the MGA going to move the focus of our homicide and suicide issues to a "people problem" instead of a "gun problem?" Until the MGA starts to focus on what drives people to commit these crimes, address the issues and come up with common sense solutions, this homicide problem does not go away, it just gets worse. This had been proven over the past ten years. The Firearms Safety Act of 2013 was supposed to be the solution to our criminal use of firearms in this state. Instead, the problem has only become worse. Eyes have never been on the ball regarding this issue.

I have no problem throwing Baltimore under the bus regarding the drive for bills like this. If the MGA wants to use this city as the reason for making laws like this then I have no problem throwing it right back at you. Take care of the criminals that you already have instead of making *more* criminals out of law abiding people like me.

There is a stigma attached to "80 percent receivers", "AR rifles/pistols" and so called "ghost guns". These terms translate to "untraceable firearms" in the political arena. The mere mention of those words seem to conjure up fear, murder & crime in the minds of people that are not familiar with the hobby of building such guns. I assure you that all of law abiding citizens that partake in this hobby are not criminals. We are people that enjoy working with our hands, enjoy problem solving and enjoy reaping the benefits of our labor once a project is complete. There are many of us.

Building firearms has become one of my favorite hobbies over the years. I enjoy building firearms from un-serialized 80 percent receivers for my own personal use. AR style receivers are my firearms of choice, mainly for target shooting purposes. I have invested a lot of money in tooling and a lot of money into the firearms.

The price that it takes to make a home built gun is equivalent to, or more, than it costs to buy the same gun that is already built by a manufacturer. We already know that statistically our crime problem is overwhelmingly committed by criminals using stolen handguns. It makes no sense for a criminal to research and buy an 80 percent kit, researching which particular type of expensive tooling to buy, purchasing all of the tooling and then learn how to build a firearm when they can simply buy a used, stolen gun for a small fraction of the price and without the hassles of researching, tooling and building.

While the criminal closure rate remains very low in our state's high crime areas, law abiding gun owners and home builders tend to be the scapegoated group that takes the brunt of proposed legislation such as this bill.

I request an unfavorable report.

Sincerely,

A handwritten signature in black ink. The name "Scott" is written in a cursive style, followed by "Davis" in a more stylized, looped cursive. The signature is written over a light blue horizontal line.

Scott G. Davis

grassley_to_justice_dept.guncrimeinitiative.pdf

Uploaded by: Scott Hewitt

Position: UNF

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 14, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Attorney General Garland:

On February 3, the Justice Department (DOJ) released its latest fact sheet on gun violence reduction efforts.¹ This fact sheet discusses policies already promoted by the Biden Administration's June 2021 gun crime strategy. I am concerned that the Biden Administration's strategy, and the DOJ's implementation of it, politicize our response to violent crime. By misdirecting energy to ineffective, partisan gun control solutions, the DOJ will have little to no effect on violent crime. The DOJ will also target and intimidate law-abiding businesses and citizens for exercising their Second Amendment rights.

We have a serious violent crime problem which requires serious policy solutions. At least 16 U.S. cities set murder records in 2021.² A study from last month found that 27 major U.S. cities experienced a 44% increase in homicides since 2019.³ Attacks on law enforcement also continue to rise. In 2021, law enforcement officers were victims of more felonious killings than since the September 11 attacks. Ambush-style attacks on law enforcement spiked 115% in 2021.⁴

Despite this continued rise in violent crime, the DOJ and the President have decided to focus time and taxpayer resources on policies that will not work, including addressing the so-called "Iron Pipeline," ghost guns, and lawful firearms dealers.

According to the fact sheet, the DOJ's "Iron Pipeline" efforts will crack down on illegal gun trafficking from "source cities [and] communities" to five key market regions: New York, Chicago, Los Angeles, the San Francisco Bay area/Sacramento region, and Washington, D.C. The fact sheet creates the false impression that the explosion of crime in Democrat-controlled

¹ U.S. DEP'T OF JUST., *Justice Department: Violent Crime Reduction Efforts*, <https://www.justice.gov/file/1468221/download>.

² Paul Best, *Fraternal Order of Police Accuses White House Press Secretary Psaki of Laughing Off Rising Crime Rates*, FOX NEWS (Feb. 1, 2022), <https://www.foxnews.com/us/fraternal-order-police-accuses-white-house-press-secretary-of-laughing-off-rising-crime-rates>.

³ COUNCIL ON CRIM. JUST., PANDEMIC, SOCIAL UNREST, AND CRIME IN U.S. CITIES: 2021 YEAR-END UPDATE (Jan. 2022), available at <https://counciloncj.org/crime-trends-yearend-2021-update/>.

⁴ @GLFOP, TWITTER (Jan. 24, 2022, 11:30 AM), <https://twitter.com/GLFOP/status/1485651194030743559>.

cities is entirely the fault of states with lower rates of crime. However, data from the Bureau of Alcohol, Tobacco, and Firearms (ATF) shows that this assertion isn't true. In 2020, the most recent year for which data is available, *every state* provided the greatest number of recovered firearms within its own borders. In Illinois, for example, firearms from Illinois accounted for 5,937 recovered guns in Illinois, while neighboring Indiana accounted for only a third of that number. Guns from California account for more of its own firearms recoveries than all other states combined.⁵ New York-sourced guns accounted for almost as many guns recovered in New York as the next two states *combined*.

The President's focus on the "Iron Pipeline" is a political effort to falsely suggest that conservative states with robust legal access to firearms somehow cause crime in Democrat-run cities. This is a distraction from the reality that the explosion of crime in blue cities is directly attributable to those same cities implementing de-policing, installing progressive prosecutors, and enacting disastrous bail reform policies.

The fact sheet also discusses the launch of a National Ghost Gun Enforcement Initiative. It references the 325 homicides or attempted homicides connected to ghost guns recovered by the ATF between 2016 and 2020.⁶ According to the FBI, there were 89,076 homicides in that time,⁷ to say nothing of the number of attempted murders. Therefore, less than 0.36% of homicides involved these ghost guns. Stating the number of homicides committed by ghost guns without accounting for the total number of homicides in the given time period is grossly misleading. Law enforcement should be focusing on the increase of murders, the overwhelming majority of which do not involve ghost guns.

The DOJ is also planning "a new initiative to enhance communication with federal firearms licensees (FFLs)."⁸ ATF will now notify an FFL if a firearm purchased from them was used in a violent crime. As I have stated before, violent criminals should be punished, and anyone who knowingly assists them in unlawfully purchasing a firearm should be held accountable. However, your agency found that only 7% of firearms used in a crime are acquired from legal firearm dealers, compared to the 56% which are stolen or purchased in the black market.⁹ There is no data suggesting that legal firearm dealers are responsible for any significant increase in crime. Once again, your agency, at the President's direction, is spending precious time and resources on a solution that will have minimal effects and will misdirect these resources from violent crime prevention to gun control. I am extremely concerned this continued attention on FFLs by the Biden Administration may result in substantial harassment of legally operated

⁵ *Firearms Trace Data: California-2020 Data Source: Firearms Tracing System January 1, 2020-December 31, 2020*, ATF, <https://www.atf.gov/resource-center/firearms-trace-data-california-2020>

⁶ U.S. DEP'T OF JUST., *Justice Department: Violent Crime Reduction Efforts*, <https://www.justice.gov/file/1468221/download>.

⁷ Uniform Crime Report, *Crime in the United States, 2019*, Fed. Bureau of Investigation, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-1> (last visited Feb. 7, 2022). *See also* Ryan Lucas, *FBI Data Shows An Unprecedented Spike In Murders Nationwide In 2020*, NPR (Sep. 27, 2021), <https://www.npr.org/2021/09/27/1040904770/fbi-data-murder-increase-2020>.

⁸ U.S. DEP'T OF JUST., *Justice Department: Violent Crime Reduction Efforts*, <https://www.justice.gov/file/1468221/download>.

⁹ *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, U.S. DEP'T OF JUST., OFFICE OF JUSTICE PROGRAMS, <https://bjs.ojp.gov/content/pub/pdf/suficspi16.pdf> (last visited Feb. 4, 2022).

businesses. This may have downstream effects for Americans who require access to firearms for protection from crime.

Finally, this letter is the latest in a long, concerning pattern of your agency's failure to answer my oversight requests. As I told you in an October 2021 oversight hearing, under your leadership the DOJ has failed—across the board—to comply with this Committee's Republican oversight requests. Yet, my Democratic colleagues have received thousands of pages of material. In July of last year, after the release of two concerning documents from the Biden Administration on politicizing law enforcement, including the very gun violence strategy I discuss in this letter, I wrote to the DOJ with a list of questions to ensure it was not being influenced by partisan politics.¹⁰ In October, after not receiving a true response to those questions, I wrote again.¹¹ This month, I received a response from the DOJ indicating that no information would be forthcoming. The lack of response from a Department that purports to be dedicated to transparency, accountability and the rule of law is extremely troubling.

For Congress to engage in appropriate legislation and oversight activity needed to address the alarming rise in violent crime, please provide the following information:

1. How many murders occurred from 2016-2020? How many of those murders involved ghost guns? How many of those murders involved conventional firearms? How many of those murders did not involve a firearm?
2. Is it true that crime began to rise in June 2020, at the time national riots were erupting and depolicing efforts began en masse throughout the country?
3. Is violent crime rising in cities with progressive prosecutors such as NYC, Chicago, Los Angeles, and San Francisco—the very same cities on the strike force list?
4. State and local police are asking federal prosecutors for more assistance fighting crime. Are there any barriers to state and local police asking for more assistance in fighting crime?
5. What percentage of crime are firearms used by the person who purchased them from an FFL?
6. How many FFLs a year knowingly sell a gun to a person who cannot legally possess one?
7. How many FFLs were robbed during the riots that occurred during the summer of 2020? Are these robberies connected to de-policing efforts?
8. Did the cities and states most affected by the riots experience a spike in FFL robberies? Has the percentage of FFL robberies declined since the riots?

¹⁰ *Politics Taking Priority In Justice Dept. "Crime Strategy" And Biden Domestic Extremism Plan, But Were Career Officials Consulted?*, CHUCK GRASSLEY NEWS RELEASES (Jul. 12, 2021), <https://www.grassley.senate.gov/news/news-releases/politics-taking-priority-in-justice-dept-crime-strategy-and-biden-domestic-extremism-plan-but-were-career-officials-consulted>.

¹¹ *Id.*

I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary

Senate Judicial Proceedings Committee, Testimony i

Uploaded by: Scott Hewitt

Position: UNF

Scott Hewitt
Po Box 152
Galesville, Maryland 20765 - 0152
Coastal_marine@msn.com

February 16, 2022

Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Judicial Proceedings Committee, Testimony in Opposition to SB387.

Dear Chairman Smith, Vice Chairman Waldsteicher and honorable members of the committee,

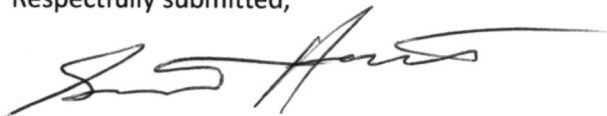
This bill is the wrong solution to the problem of increased violent crime. The increase in "Ghost" guns is a small percentage of guns used in violent crimes. Most of the crimes are committed with illegal guns are from guns with the serial numbers removed or stolen guns. I believe the up tic in home built gun being used in crimes is due to criminal builders making these guns for sale. Look into the case of Robert Alcantara of Providence, Rhode Island. He was caught building and selling ghost guns. Anyone selling a home made gun is committing a felony, under current law. Use the laws on the books to prosecute those criminals selling them. Why would a criminal go to the trouble of buying all the part and tools needed to machine one of these gun. When buying a gun on the black market is so easy. You can go after the people selling these guns with laws already on the books.

You can buy a complete gun for a lot less money, than it costs to build one. It's a hobby. This bill sweeps the lawful home builder into being a criminal. You are proposing taking property without compensation. Imposing excessive fines and prison time for what was lawfully owned property. Forcing a serial number by a FFL with no cost fixed to what can be charged to do the engraving is an unfair burden.

Serial numbers on guns are for traceability in commerce, not for crime. The idea that one of these guns is untraceable is not correct. If one was used in a crime, the ballistic evidence can trace the gun and match it to a crime. Even the ATF cautions the use of trace data.

I asked you for an unfavorable report on this bill.

Respectfully submitted,



Scott Hewitt

SB387 Opposition.pdf

Uploaded by: Scott Stramella

Position: UNF

Scott Stramella
1442 Shesley Rd
Edgewater, MD 21037
410-507-7875

SB387 Public Safety – Untraceable Firearms: OPPOSED

ATTN MGA:

I am opposed to the subject bill, SB387. This bill has no effect on violent offenders nor attempts to punish criminals for their actions. This bill only goes after law abiding citizens that legally have purchased and constructed their firearms. Citizens have constructed firearms for personal use since before the countries birth. This bill would force law abiding citizens to surrender or destroy their property as this bill cannot be legally adhered to. It is federally illegal for an FFL to inscribe a serial number on a firearm. Therefore, based on the bills requirement, makes this impossible to comply with. This bill is also written to attack a problem that is not an issue. Criminals will do as they please so going after a metal part is not effective. These bills should go after the criminal and make them responsible. It is already illegal for a disqualified (illegal) person to manufacture or own a firearm. This bill truly only goes after a person's legal property and will have zero effect on criminals. If this bill were to pass, the criminal element would go over state lines to get any part they need to manufacture a firearm or continue theft or illegal purchases as the majority do. I am strongly opposed to this bill as its purpose as written is to remove the law abiding rights to keep and bear arms.

Sincerely,

Scott Stramella

Written testimony of Sherrie-Lynn H Davis unfavora

Uploaded by: Sherrie-Lynn Davis

Position: UNF

February 15, 2022
Sherrie-Lynn H. Davis
8 Willard Street, Apt 2
Hagerstown, MD 21740

WRITTEN TESTIMONY REQUESTING AN UNFAVORABLE REPORT TO SB 387

I appreciate the opportunity to present my testimony in opposition to SB 387 to the members of this committee this afternoon.

Should this bill become law, there will only be two ways for any law-abiding citizen of Maryland to comply. The most obvious is to sell the 80 percent firearm(s) to a licensed FFL. The second is to have a licensed FFL actually engrave a serial number on the 80 percent receiver(s) before the law goes into effect. Time and time again, I have heard the same statement from the same legislators: "Just put a serial number on it". Impossible. There is not one FFL in Washington County, Frederick County, Allegany or Garrett County that is willing to engrave serial numbers on an 80 percent receiver(s) nor can I sell an un-serialized 80 percent build to an FFL. This leaves me with one option: to destroy any 80 percent build that I may have.

I have lived in Washington County, MD for 19 years after having lived in Virginia from 1978-1995 and from 1969-1978 I lived in Georgia. Never have I experienced such disgust in legislators that try to attack the 2nd amendment by forcing law-abiding citizens to follow such archaic laws already on the books but also trying to push through the bill that is being presented today. I worked for a second amendment organization that always said, "give 'em an inch and they'll try to take a mile." And I must say, I have learned exactly what was meant after I moved to Maryland. I understand **Baltimore has a crime problem**. But should that be the whole state of Maryland's problem? Should I, a law-abiding citizen, be held accountable because you can't get Baltimore under control? Do you really think penalizing citizens that follow the law to a "T" will solve the problem you have on your hands? I for one **am tired of being held responsible for Baltimore's issues**.

Maryland is a beautiful state. It is unfortunate that senators, representatives, attorney generals, mayors and out of state lobbyists are determined to turn me into a criminal simply because I choose to exercising my second amendment right by owning my preferred type of firearm(s). Have you taken a step back and completely understood what you will do to citizens if this bill passes? Our lives could be ruined by stiff penalties, fines that are astronomical, and jail time. Yet those that actually COMMIT crimes, are slapped on the wrist and released on bail only to turn around and commit MORE crimes. You will create more criminals out of citizens just like me then you will prevent crime that you think occurs with these types of firearm(s).

Passing a bill and making this a law will not solve your crime problem. You simply make me a criminal. And true criminals do not make nor do they purchase their firearm(s) through a legal FFL holder. They steal them and/or buy them on the black market. Yet, you are going to make criminals out of those that enjoy the ability to build their own firearm(s) out of legally purchased parts.

I don't see how your proposed legislation will curb the crime you seem to think it will. Proof is in the low criminal closure rate in high crime areas. Don't blame me for your inability to effectively capture and prosecute true criminals.

I request an unfavorable report.

Sincerely,

Sherrie-Lynn H. Davis

SB387 UNFAVORABLE - Stephen Johnston.pdf

Uploaded by: Stephen Johnston

Position: UNF

Stephen Johnston

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February 7, 2022

SB387 Public Safety – Untraceable Firearms
Unfavorable

I am a defense contractor whose current and prior employers include one of the top research laboratories in the United States and one of the leading aerospace corporations in the world. In my spare time I enjoy shooting sports, 3D printing, and amateur machinist work. Similarly, many of my coworkers share the same passions for designing and engineering work, shooting sports, hunting, and outdoor pursuits. I write in opposition to SB387, a bill that would place undue burden on the owners of existing lawfully made firearms, including those owned for the purpose of self-defense in the home as well as adds contradictions to federal law. Maryland residents have always had the right to make their own firearms since before the founding of this nation. Many of the colonial era gunsmiths who made the very arms with which our nation won independence were little more than men and women in a shed making their own firearm, much like today's firearm enthusiasts making their own firearms. This bill also serves to add yet another opportunity for selective enforcement in a time when police reform has taken front and center stage, all in the idea of an over-hyped threat of home manufactured firearms potentially being used in crimes.

This Bill is Heavy Handed

The proposed bill takes a much more heavy handed approach in comparison to similar bills from the last General Assembly session targeting home manufactured firearms. Last year the proposed bills, SB624 and HB638 allowed current owners to serialize privately made firearms by themselves, adhering to marking requirements similar to federal requirements, and created civil penalties for first-time offenders who failed to mark their firearms. This bill, by contrast, jumps directly to a life-changing criminal penalty of up to three years imprisonment and up to a \$10,000 fine per count. For the average firearms enthusiast, this could mean decades in prison and financial ruin. All for continuing to possess property that was legal yesterday and effectively outlawed the next.

Serial Numbers

The majority of my home manufactured firearms are polymer framed firearms with a metal plate molded into the plate for identification. With the small real estate of these plates I have stamped

unique serial numbers for my own use and for registration with Maryland State Police (in the case of handguns) in case of loss, theft, or an insurance claim in case they are destroyed in a disaster. This bill creates a difficult situation for people like me since in order to comply with this bill as written, I would need to obliterate the existing serial number (a federal felony) and impress a new, different, serial number. People like me are stuck between a rock and a hard place under this bill since I'm faced with the choice of being a criminal by complying with the bill or a criminal by not complying.

This becomes a particularly complicated situation in regards to firearms that fall under the National Firearms Act of 1934 that also has a strict, federal, marking requirement to be carried out by the firearm owner themselves. In the case of these firearms, the Bureau of Alcohol Tobacco Firearms and Explosives (BATFE, or ATF) allows a person to propose a serial number and information (submitted exactly as it will be marked) and once approved simply states the minimum size, depth, etc. In the case of these firearms, the simple act of changing the spacing of letters or adding a hyphen would require an approval of a marking variance from the federal government. Complying with this bill as written would require modifying the markings on such a firearm and, similarly to earlier issues mentioned, give the owner of the firearm the choice of violating state law or federal law. One can comply with one or the other, but not both as this bill is written.

The bill requires an FFL to engrave receivers, but does not compel them to do so.

This bill requires that a firearm be engraved or marked to specific requirements by a Class 07 Federal Firearms Licensee (FFL) regardless of if the firearm was already stamped or engraved previously by the individual who already created the firearm. Yet the bill does not require any FFL to offer these services and those who do choose to offer these services are free to charge any fee they would like, no matter how steep it may be in the captive market this bill creates.

The question of costs and why someone would want to make their own gun

Many firearm makers in the state of Maryland have taken to customizing and making their own firearms. Be it for tailoring to individual needs, making an otherwise out of production firearm where costs of an original copy are a tremendous burden, or simply for the pride and satisfaction of making something with your own two hands and the know-how to work with them. Make no mistake, there is value not only in individual parts, but also in the time and effort that goes into the making of the gun. This bill threatens to deprive Maryland residents of property, not only the value of materials but the value of time invested, sometimes many times over in the case of serious collectors.

Cost arguments aside, I have been a firearm owner for a few years now, the clear message I've received from bills like this is one of disdain and animosity toward those with an interest in owning a firearm for self defense, sport shooting, or hunting. This bill is no different, the bill is arbitrarily picking the origin of a firearm and attempting to deprive Maryland residents of their property with no justification and no compensation for their hard work, time, and materials.

The Do-It-Yourself attitudes that have become prevalent in our culture, be it home gardening, working on your own automobile, or even building a whole house, also exist in the firearm community. Many Maryland residents like to tailor the things they use. In the case of a firearm, that thing is used for anything from self defense, hunting, or competition shooting. If the store doesn't

provide it or charges unreasonably for it, they may wish to make it themselves. Take for instance, the case of me trying to find just the right grips for a handgun I enjoy shooting. I purchased a very nice CZ-75 handgun from a Maryland gun dealer, went through the MD State Police 77R process, but found when shooting that the grips simply didn't fit my hands or grip very well. Due to the company designing the handgun to fit a diverse base of customers, an active aftermarket exists for grip panels fitting this off the shelf gun. In essence, however, it's a guess and test system for what overpriced piece of plastic will fit your hands the best when it's bolted to the grip of the handgun. As I have a fair background in Computer Aided Design (CAD) and 3D printing, I decided to design and print grip panels for this handgun until I arrived on ones that fit my hand and afforded me the best grip, control, and accuracy with that firearm. Commercial grip panels for this firearm are essentially \$50-75 pieces of plastic, imagine having to try three different sets before you find one that fits you.

Lets take another example of why one might want to build their own firearm. In the case of Glock brand handguns, a common complaint is the ergonomics of the grip not fitting most hands very well. One option is to buy the Glock handgun, send it off to a custom gunsmith, wait weeks or even months, and pay in upwards of \$1,000 on top of the purchase price of the gun itself to have a handgun that fits your hand well. Another option is to manufacture your own. In the case of a Polymer 80 handgun frame, the ergonomic enhancements are already there from the factory but you still have to use commercial, off the shelf, Glock brand parts. The frame itself is where you must do the manufacturing yourself. It would be a violation of federal law to manufacture a firearm for another person, after all, so the burden of manufacture is on you, the ultimate owner of the firearm. When all is said and done, a handgun manufactured on a milling machine (often costing upwards of \$10,000 for even a used machine) will cost about \$750. Cheaper than the custom shop option, but still more expensive than an off the shelf Glock costing approximately \$400-500. Once again, the purpose of manufacturing this handgun yourself can be summarized with cost savings, ergonomics, and satisfaction in knowing *you* made the firearm you're depending on.

What does this bill mean to furthering the interest of public safety?

The rationale for this bill is weak, the only people who would comply are those who actively follow developments in Maryland law and have an interest in staying on the right side of the law. Criminals, by definition, do not follow these laws and will continue to ignore them. This law will not hurt criminals, but only those who chose to engineer firearms to meet their specific interests and needs, all while these Maryland residents did painstaking research into state and federal law to ensure they don't violate existing laws.

For these reasons, I must urge you give an unfavorable report to this bill. If it were enacted into law, the State will be prosecuting inevitable violations by otherwise law-abiding citizens of Maryland, destroying reputations and inflicting legal and economic ruin on these individuals, all for continuing to own a firearm that was legal the night before. Jobs will be lost, security clearances revoked, and families broken. Whatever public safety rationale is hollow, as criminals aren't going to invest the time, research, and effort into manufacturing their own firearm when a stolen handgun can be purchased in a back alley of Baltimore. Instead of muzzling the creativity, skill, and curiosity of Maryland residents by taking their property, it would better serve public interest to instead focus on those who have demonstrated a willful disregard for the lives and safety of others, the very people harming innocent people right now.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Steve Johnston". The signature is fluid and cursive, with the first name "Steve" and the last name "Johnston" clearly distinguishable.

Stephen Johnston
1003 Tasker Ln.
Arnold MD 21012
SteveJohnston93@gmail.com

SB387.pdf

Uploaded by: Theodore Wojtysiak

Position: UNF

Theodore J Wojtysiak
SB387 Public Safety - Untraceable Firearms
Unfavorable
2/16/2022

I am writing with regards to my opposition to SB 387, cross-filed with HB 425, regarding “Untraceable Firearms”. This proposed law seeks to criminalize Constitutionally protected conduct without meaningful benefit to society, and it unnecessarily and significantly burdens current and future firearms hobbyists within Maryland.

This law would make illegal behavior that has been legal since before Maryland was a state. A Maryland citizen has *always* been able to build, construct, and manufacture firearms for their personal use. However, this bill would remove the ability for citizens to build their own firearms from scratch, as it is impossible to simultaneously build a firearm receiver after the onset of the law and have it registered appropriately. The penalty for the so-called “crime” of building a firearm from scratch is incredibly onerous: **up to 3 years and \$10,000 per violation**. For comparison, here are the penalties compared to driving under the influence:

	1st DUI	2nd DUI	3rd DUI	1 Ghost Gun	2 Ghost Guns
Jail	< 1 year	< 2 years	< 5 years	< 3 years	< 6 years
Fines	< \$1,000	< \$2,000	< \$5,000	< \$10,000	< \$20,000
License Suspension	< 6 months	< 9 months	< 12 months	N/A	N/A
Firearms Rights	N/A	N/A	N/A	Revoked Permanently	Revoked Permanently

To put this in context, someone who has *any non-serialized firearm receiver* - a Polymer 80 frame, any incomplete 80% lower, a home-built shotgun, a machined 1911 frame, even a potato launcher - would **suffer worse penalties than committing two separate DUI instances**. With two such firearms, that person suffers the same as someone with three separate DUI events. **This is egregious**. This bill puts the ownership of Constitutionally protected firearms at the same level as multiple dangerous moving violations. The possessor of the unserialized firearms poses no risk to society, meanwhile the person driving under the influence could easily end people’s lives. Which should Maryland punish more? Why is this bill proposed as such? Why are you punished at all for owning something that you are otherwise legally allowed to own based solely on its serialization? This is absurd. It is even more absurd when you recognize that a serial number can be filed off in moments - removing any potential benefit from this law while leaving a very onerous penalty for regular citizens.

This should clearly prove that the penalties offered in this bill are completely unreasonable. Additionally, the listing of what is considered a "firearm" here is absolutely vague and interpretive to a point of absurdity. At its absolute interpretation, Home Depot and Lowe's would have to serialize every 2x4 and piece of metal and PVC pipe, as these are all commonly used to make improvised firearm frames and are advertised as such on home hobbyist websites. One could say that I am being obtuse here. However, I am not the one writing laws to criminalize people who are otherwise law-abiding citizens for performing Constitutionally protected activities such as "bearing arms" under the guise of improving public safety. I am reading the law as it is written, and it is written such that the above is true.

Rough estimates place "80% firearm" sales in the tens of thousands since 2017. It is easy to imagine that easily 5 times that many firearms exist that would meet the legal definition of "an untraceable firearm". In Maryland, there are a total of 776 Federal Firearms Licensed (FFL) businesses and individuals. Of those, 163 are Licensed as "Manufacturers" of Firearms (Class 7), and a lot of these FFLs are individually owned or large scale businesses dealing in the actual manufacturing of firearms such as Benelli. Of those remaining, a small fraction of them have the capability to make the required markings to these "untraceable firearms". However, there are open questions about the serialization process.

Questions that can be considered nebulous and incredibly important about this proposed law and have no clarification supplied yet by any agency of the state:

1. Is an FFL able to serialize a firearm that they did not produce?
2. Are there liabilities to the FFL for serializing the firearm, such as safety concerns?
3. Is it a firearm "transfer" to get the newly serialized firearm back from the FFL?
4. Do you have to fill out a Maryland 77R on receipt of your newly serialized handgun?
5. Do you have to fill out a US 4473 on receipt of your newly serialized long gun?
6. Is the firearm "new" after serialization?
7. Does the "new" firearm need to be on the handgun roster to return to its owner?
8. Can a now-banned by name or copycat firearm be serialized and received back?
9. Do you need an HQL to receive a handgun back from serialization?
10. How do you safely serialize firearms that don't have a serialization plate?
11. Are there any means for new residents to serialize a homemade firearm post-2023?

All of these are significant questions that have incredibly large implications for the implementation and enforcement of this law. The time it will take for COMAR to implement this law into Maryland code will work against the already short timeline and limited FFLs for compliance, including the fact that the ATF should be heavily engaged in ensuring Maryland is writing a bill that fits into compliance with ATF Regulations for FFLs and firearms.

This law is in response to increasing numbers of homemade firearms being found in Baltimore City and other urban areas. There has never been a dearth of illegal firearms here. This law makes it such that people who were openly willing to commit murder have to source firearms instead from: parts kits out of state; or manufacture them on their own; or continue to steal them from the surrounding area; or buy them from the local black market; or straw purchase them.

This bill will not even begin to stop the crime and violence in the city. What would fix that? Studies have shown that reforming the education system, reducing poverty, improving the prison systems, and reducing the illegal drug trade would remove criminal incentives and improve the general welfare. This bill offers none of that. The people that were willing to commit murder would be similarly willing to commit murder before and after this law's passage, and they will have no problem obtaining tools to perform such acts.

After this law's passage, however, thousands of Maryland's citizens will be considered felons for committing absolutely no danger to society. The timeline for serialization is impossible for even a minority of these individuals to comply with, and the people writing this bill know that with full confidence. Additionally, many who would be non-compliant will not know about this bill at all. These individuals are not prohibited persons, and they do not intend to use their hobby-obtained firearms for ill will, and they do not know about this law coming to fruition.

If anyone listened to Attorney General Frosh talk to the House Judiciary Committee last week, they would also think that many homemade firearms are exempt from this bill as the AG claimed that this only impacts Polymer 80 type handguns. The written law makes no such distinction - and in fact is written in such a way that it is clear the AG was shamefully lying in his testimony. Other lies were put forward by the AG, such as claiming that 80% receivers have moving parts in them, and that this law only impacts fully finished firearms, and that this law does not impact future hobbyists, and that no one needs to make a handgun so it should be no problem to destroy it. His testimony was insulting to people who understand firearm law, and it is worrisome that so many legislators did not openly question his false assertions. And on top of this: no one questioned the severity of the bill's penalties. That is heartbreaking to me, as it shows that Maryland's delegation is okay with penalizing Marylanders significantly for causing no harm to others. And Meanwhile, people who are already disallowed from owning a firearm will suffer no negative consequence from possessing and using a home fabricated firearm, as it has been shown that most minor charges are plead away in an effort to guarantee charges.

I urge a total and complete unfavorable report.

Ted Wojtysiak
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Kasuba_OPPOSE_SB0387.pdf

Uploaded by: Thomas Kasuba

Position: UNF

Please **OPPOSE** SB 387
Public Safety – Untraceable and Undetectable Firearms

I'm going to ask people to be very open minded and to step outside the fear mongering associated with this bill and imagine yourself within the sportsman/hobbyist culture.

A TELLING ABSENCE

Had this bill started with "A person who commits a crime with a home made firearm shall have 3 years added to their sentence" I would believe that it was all about the criminal misuse of firearms but instead, I see this as 100% aimed at the workshop craftsman; nothing more, nothing less. Why is the onerous burden and expense squarely on the non-criminal? It seems that the only "ghost" in this bill is the criminal because they are nowhere to be seen.

THIS NEEDS TO BE DONE YESTERDAY

Even after two whole years into this pandemic the State of Maryland has not yet vaccinated the entire population yet less than half that amount of time is allotted for firearm owners to spend their own money to jump through hoops to legalize what is currently legal.

SAYING OUTLOUD THE USUALLY QUIET PART

Having been raised in an anti-firearm I know quite well that firearms that the government doesn't have on a list are firearms that can't be confiscated in the future.^[1] Lets be honest, THIS is what is driving this bill.

SINS OF THE FATHE...GREAT GRANDFATHER

So something that one's great grandfather made can now land a person in legal jeopardy? An inanimate object that was perfectly legal for the duration of your grandfather's and father's life is now a horrible crime? Generational punishment skipping? The grand kid is guilty for an innocent act that happened 50+ years ago? It should make all of us, non-firearm owners included, wonder; what innocuous things are we all doing today that will land our grandchildren in prison?

YODA: "Fear is the path to the dark side. Fear leads to anger. Anger leads to hate. Hate leads to suffering [of the wrong people]."

I find it so unfortunate that an irrational fear of simple objects continues, year after year here in Annapolis, to metastasize into outright hatred for the firearm owner with the constant "we'll get'em this time" bills continuing to manifest. I also find it sad to continuously, see bills to further bludgeon those that seem to be perceived as lower than criminals political enemies; I assure you, the firearm owner is not.

ARE YOU BEING EMOTIONALLY MANIPULATED?

Every parent knows the song in Disney's "Beauty and the Beast" that goes:

"The beast will make off with your children,
he'll come after them in the night.
We're not safe 'till his head is mounted on my wall.
I say we kill the beast!
...
Raise the flag, sing this song,
here we come we're fifty strong.
And fifty Frenchmen can't be wrong,

let's kill the beast!"

Our culture mocks the under informed mob mentality of fear that lashes out at things and people they don't understand. Lawmakers certainly don't fully understand firearm owners given the laws they propose year after year. To learn that some people make their own firearms seems to have pushed some people into the mindset of Disney or perhaps Shelley's torch carrying mob in Frankenstein. I assure you that Maryland's firearm owners are not monsters that need to be destroyed by targeted harsh laws for committing the "crime" of being very mechanically inclined.

WHAT WAS OK FOR HUNDREDS OF YEARS IS NOW CRIMINAL?

Is this bill about the criminal or is it about discouraging the hobbyist from building their own firearms as their great, great, (8 more times) grandfather has done perfectly legally since even before the founding of this country? When a bill is contrary to more than 240 years of a country's history perhaps the bill isn't the proper approach to the perceived problem.

CASPER THE FRIENDLY GHOST (GUN)

The term "ghost gun" is an emotional term to viscerally invoke fear; it is an attempt to control your beliefs and views. Every one I've seen at the gun range is a colorful, creative expression of someone's exceptional skills that evokes not fear but awe.

CAN'T A PERSON HAVE SOME PRIVACY?

Why is it that government has the most privacy? We as citizens have to Freedom of Information Act (FIOA) to get the most basic information for government transparency yet government knows EVERYTHING about us. There are many things that should remain private. Its NO ONE'S business.

THE UNTOLLED BURDEN ON THE EXTREME COLLECTOR

When my family cleaned out my grandmother's house after her passing we found dozens of knitting projects. Dozens! Its just what she did. I have seen pictures on social media of people with dozens of homemade firearms projects. What will be the financial and time burden on them? And what about the next hoop and the next and the one after that. We all know that there will be more hoops and legal threats just to break the bank and will of the firearm owner. Are we still a free people if every year one has to wonder what new noose has been designed for us.

THE EVER RESOURCEFUL CRIMINAL

If a criminal steals a newly serialized "ghost gun", the first thing any self-respecting criminal will do is file off that number and then we're right back to it being a "ghost" where we started. So we're left with the conclusion that it NEVER was about the criminal now was it.

Remember, this bill is meant to address less than 15% of crime committed with guns. How about putting effort against the 6 TIMES more crime out there in a way that won't purposefully target the regular citizens.

Thomas J. Kasuba (registered Democrat)
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February 16, 2022

[1] <https://crimeresearch.org/2022/02/at-real-clear-politics-democrats-pushing-gun-registry-as-precursor-to-gun-ban/>

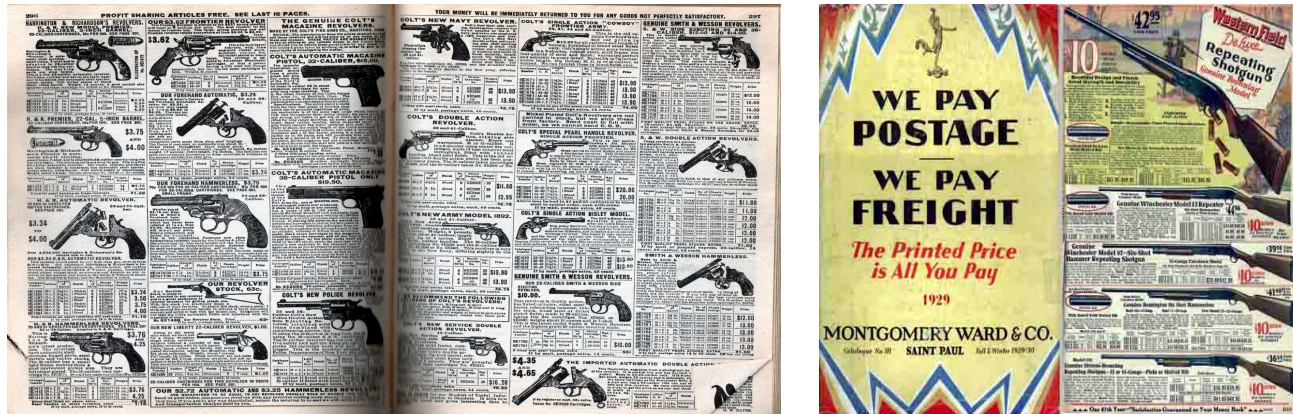
Kasuba2_OPPOSE_SB0387.pdf

Uploaded by: Thomas Kasuba

Position: UNF

Please **OPPOSE** SB 387
Public Safety – Untraceable and Undetectable Firearms

Below is an image from a 110 yr old Sears catalog selling handguns and one from an 90 yr old Montgomery Ward Ad. The Sears catalog offers handguns, regulated firearms here in Maryland. Both offered the firearms delivered directly to your home without ANY serial number, without ANY background check, waiting period, or even the government knowing about it and yet there were no school shootings and Baltimore was in its glory days.



The amount of freedom I have has lessened throughout my life; my father had more freedom than I and my Grandfather had an unimaginable amount of freedom in comparison to today and I expect that my children will be stripped of even more freedom; my grandchildren, well... Honestly, we all know this has nothing to do with crime or criminals but rather the destruction of a particular cultural lifestyle. You may revel in the destruction of that culture but it still doesn't make it right. Please find this bill "UNFAVORABLE".

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January 15, 2022

Oppose SB0387.pdf

Uploaded by: William Adams

Position: UNF

William Adams
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Opposition to SB0387

Who am I? I am a citizen in good standing in the state of Maryland. I am a business owner, an engineer by training, a sport shooter, a Glock-certified armorer, a veteran, a husband, a father, a grandfather, and a hobbyist. I derive pleasure from building things. Building my own firearm brings me enjoyment. Pleasure and enjoyment are integral in my pursuit of happiness.

This bill threatens to make me a criminal and threatens my pursuit of happiness. Why? This bill would potentially criminalize my hobby unless I go through what likely will be a burdensome and expensive process. It seems capricious and unfair that a completely legitimate hobby become illegal when there is no evidence showing that my hobby harms others.

I understand that some people naïvely believe that adding a serial number and registering a firearm is somehow going to stop gun crimes, but they are pathetically mistaken. Criminals, by the very definition, are not going to comply with this or any other gun-control law—only non-criminals will comply but that is like setting a 25-mph speed limit for pedestrians.

If the real goal of this and other bills is to make Marylanders safer, then address the root cause of their hazard. Less than 1% of Maryland adults possess concealed carry permits (referred to as handgun permits). That creates a victim-rich environment (playground) for criminals. The areas of highest crime are those with the most restrictive gun laws. Why is that? Only recently did we see a victim in Maryland successfully defend himself from five armed car-jackers because, unexpectedly, he was armed himself. When criminals realize their potential victims can fight back, they will be less likely to commit the crime. THAT'S how you reduce crime.

This legislature should stop wasting resources promoting a victim mentality and work to empower the citizens of Maryland to be able to adequately and sufficiently defend themselves against criminals. Self-defense is more than a civil right, it is a moral OBLIGATION.

STOP villainizing gun ownership. STOP making law-abiding citizens into potential criminals. REMOVE barriers to legal concealed carry of a firearm. CREATE an atmosphere of empowerment. PROVIDE easy and affordable access to firearm safety training.

Thank you,
William Adams

SB 387 McCann Unfav.pdf

Uploaded by: William B McCann Jr

Position: UNF

TESTIMONY IN OPPOSITON RE: HB425 & SB387 “Public Safety – Untraceable Firearms”

Submitted by:

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I am writing today to express my opposition to the two bills noted above.

When I purchased one of these “Polymer 80” lowers a couple of years ago, I did so because I wanted to learn more about firearms and how they were constructed and designed and didn’t want to risk doing damage to any of my other registered and serialized firearms by taking them apart and attempting to reassemble them.

I learned how much time and effort it takes to complete one of these items, especially when you have no previous gunsmithing experience. I spent many hours, over the course of several weeks, carefully performing the necessary steps required to successfully complete the process of drilling, filing, sanding, and assembling – and, at some points in the process, reassembling – the parts into a complete firearm. I knew that even one mistake would render all my work to nothing, and I would have wasted the money I spent purchasing the 80% lower, and would have needed to do so again, if I wanted to complete the process successfully.

I had to purchase additional tools, some of which are specific to this task, and I also had to purchase parts from multiple sources to complete the assembly – costing me far more in both money and time than it would have to simply purchase a similar, serialized version of the same gun.

Now, if these bills become law, I will be likely branded as a criminal, and lose my right to own any firearms at all, if I can’t either find a registered firearms manufacturer or importer to put a serial number on this firearm, or am unwilling to pay whatever price they might charge me to do so; or go out of State to find someone who is willing to purchase it; and I will have wasted my money, time, and effort spent on this project.

These bills go way beyond current Federal Law when it comes to defining them and are so broad in their definition of an unserialized and unfinished receiver or frame that a solid block of metal could be illegal, if someone sells it or markets it as an unfinished receiver.

If this is an attempt to reduce violent crime by getting them off the street, the official statistics don’t show any correlation between the existence and or seizure by law enforcement of these firearms and their use to commit violent crimes. The Baltimore Police Department has stated that ghost gun seizures have increased over the last few years. Yet, according to information from the Baltimore Police Department, the BPD seized 2,355 guns in 2021. Of that number, according to the BPD, 352 were “ghost guns,” including guns made from kits (Polymer 80s). That is slightly less than 15% of the total number of guns seized in 2021. Baltimore’s problem with illegal guns is thus far vaster than “ghost guns.” The BPD does not identify separately the number ghost guns actually used in violent crimes and there are few statistics available on the number of ghost guns actually used in crime. The U.S. Justice Department reported that more than 23,000 weapons without serial numbers were seized by law enforcement between 2016 and 2020 and were linked to 325 homicides or attempted homicides. That’s a very small percentage (0.14%) of these guns being used in crimes vs. the number seized. Criminals are accessing guns via illegal means, usually by either stealing them from law-abiding citizens, or finding other means to purchase them (straw purchases). This proposed ban will do nothing to deter violent crime, nor reduce in any significant way the availability of guns to criminals, who will go to any means to acquire what they want.

Please don't misunderstand my comments as being callous or unfeeling toward those who have become victims of gun violence. No one should have to be a victim of criminals who wish to do others harm.

However, these bills are a poor attempt to resolve the issue of violent crime, that are really due to a systemic breakdown of the criminal justice system, namely: The inability of law enforcement to arrest violent criminals, with a focus on trying to get as many guns off the street as possible while ignoring their own issues of corruption (i.e., Baltimore City's Gun Trace Task Force); The poor performance of prosecutors to build the fact-based evidentiary cases necessary to convict repeat violent offenders, and instead utilizing plea bargains to get some sort of a "win" when their cases are weak; A judicial system that continues to hand down lenient sentences to those who commit these crimes; and a penal system that does little or nothing to try and provide incarcerated individuals with the tools necessary to live in a productive society and avoid recidivism. These issues fall squarely at the feet of those leaders who are the major proponents of this bill – Mayor Scott, BCPD Commissioner Harrison, and Attorney General Frosh. While none of them were in office for the entire time that violent crime has risen in Baltimore City, they have to accept responsibility for what's going on now. What we need is stronger enforcement of the existing laws relating to violent crime, and stiffer penalties for violent criminals who are guilty of these crimes, in order to reduce it.

The act of building, repairing, and upgrading firearms by the owners of them has existed since colonial times. These bills would only turn law-abiding Maryland citizens doing such work into criminals who would lose the right to possess any and all guns that they own, and in no way reduce violent crime.

Thank you for your consideration of my response.

Sincerely,

William B. McCann, Jr.

SB0387 Unfavorable Position.pdf

Uploaded by: William Kryger

Position: UNF

SB0387 – Written Testimony of Unfavorable Position

Senate Bill 0387 is an unfocused, unproductive piece of legislation that will have virtually no impact on improving the core crime rates in Maryland and may even serve to increase violent crime. This bill will only serve to further alienate, subjugate, and criminalize existing law-abiding residents who have responsibly created their own firearms from a “kit”. It is already illegal for a convicted felon to own a firearm so this bill would not in any way prevent those parties from holding illegal firearms either stolen or trafficked in from out of state. Furthermore, there is nothing to prevent anyone from destroying the serial engraving on an existing trafficked firearm.

According to Baltimore Magazine, nearly two thirds of all seized firearms have been illegally trafficked from out of state. There is a growing business of weapons trafficking to states with strict gun laws that inhibit law abiding citizens from purchasing and/ or creating their own firearms. This bill would further fuel that black market and put more money in the pockets of those who do not wish to positively impact our communities. We need to address the root causes of why we in Baltimore have one of the highest per capita murder rates in the nation, which can even compare to murder rates in violet third world countries. The answer is not the ease of access to legally owned firearms. We need to stop this misguided attack on firearms and focus on the root causes of crime so we can truly revive our cities.

Lastly, I fear this bill will further the legislative assault on minority and impoverished communities and result in more imprisonment and more destroyed lives with unnecessary gun charges. Our goal is to stop gun violence, not to destroy more lives and create more criminal records. That is why I consider this bill unfocused. Where are all the efforts to understand why someone would want to use a gun on another person in the first place? Why are we continuing to let our inner-city public schools crumble while just outside the city we have some of the best educational systems in the nation? Is it the “ghost guns”? No, that is just another distraction from our true issues so that we can feel like we did something while not actually achieving anything all and potentially making the problem worse. It’s extremely tiring to see this time and time again. I want to make real progress where our youth aren’t thrust into a permanent life of criminal activity by a state that does not seem to actually care about them, but only wants to toss them in jail.

Thank you for hearing my position on this bill. Maryland needs to lead less with an iron fist and more with a helping hand. Let’s not place further restrictions on legal gun owners. Let’s not amplify an already thriving firearms black market and let’s focus on the people who desperately need our support, not our handcuffs.

References:

<https://www.baltimoremagazine.com/section/community/iron-pipeline-gun-violence-out-of-state-traffickers/>