

SB 387 - HB 425 - Oppose

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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,
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