



# House of Representatives

General Assembly

**File No. 591**

February Session, 2018

Substitute House Bill No. 5540

*House of Representatives, April 19, 2018*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING GHOST GUNS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-3 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 Except where different meanings are expressly specified, the  
4 following terms have the following meanings when used in this title:

5 (1) "Person" means a human being, and, where appropriate, a public  
6 or private corporation, a limited liability company, an unincorporated  
7 association, a partnership, a government or a governmental  
8 instrumentality;

9 (2) "Possess" means to have physical possession or otherwise to  
10 exercise dominion or control over tangible property;

11 (3) "Physical injury" means impairment of physical condition or  
12 pain;

13 (4) "Serious physical injury" means physical injury which creates a  
14 substantial risk of death, or which causes serious disfigurement,  
15 serious impairment of health or serious loss or impairment of the  
16 function of any bodily organ;

17 (5) "Deadly physical force" means physical force which can be  
18 reasonably expected to cause death or serious physical injury;

19 (6) "Deadly weapon" means any weapon, whether loaded or  
20 unloaded, from which a shot may be discharged, or a switchblade  
21 knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles. The  
22 definition of "deadly weapon" in this subdivision shall be deemed not  
23 to apply to section 29-38 or 53-206;

24 (7) "Dangerous instrument" means any instrument, article or  
25 substance which, under the circumstances in which it is used or  
26 attempted or threatened to be used, is capable of causing death or  
27 serious physical injury, and includes a "vehicle", as that term is defined  
28 in this section, and includes a dog that has been commanded to attack,  
29 except a dog owned by a law enforcement agency of the state or any  
30 political subdivision thereof or of the federal government when such  
31 dog is in the performance of its duties under the direct supervision,  
32 care and control of an assigned law enforcement officer;

33 (8) "Vehicle" means a "motor vehicle", as defined in section 14-1, a  
34 snowmobile, any aircraft, or any vessel equipped for propulsion by  
35 mechanical means or sail;

36 (9) "Peace officer" means a member of the Division of State Police  
37 within the Department of Emergency Services and Public Protection or  
38 an organized local police department, a chief inspector or inspector in  
39 the Division of Criminal Justice, a state marshal while exercising  
40 authority granted under any provision of the general statutes, a  
41 judicial marshal in the performance of the duties of a judicial marshal,  
42 a conservation officer or special conservation officer, as defined in  
43 section 26-5, a constable who performs criminal law enforcement  
44 duties, a special policeman appointed under section 29-18, 29-18a or

45 29-19, an adult probation officer, an official of the Department of  
46 Correction authorized by the Commissioner of Correction to make  
47 arrests in a correctional institution or facility, any investigator in the  
48 investigations unit of the office of the State Treasurer, a United States  
49 marshal or deputy marshal, any special agent of the federal  
50 government authorized to enforce the provisions of Title 21 of the  
51 United States Code, or a member of a law enforcement unit of the  
52 Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of  
53 Connecticut created and governed by a memorandum of agreement  
54 under section 47-65c who is certified as a police officer by the Police  
55 Officer Standards and Training Council pursuant to sections 7-294a to  
56 7-294e, inclusive;

57 (10) "Firefighter" means any agent of a municipality whose duty it is  
58 to protect life and property therein as a member of a duly constituted  
59 fire department whether professional or volunteer;

60 (11) A person acts "intentionally" with respect to a result or to  
61 conduct described by a statute defining an offense when his conscious  
62 objective is to cause such result or to engage in such conduct;

63 (12) A person acts "knowingly" with respect to conduct or to a  
64 circumstance described by a statute defining an offense when he is  
65 aware that his conduct is of such nature or that such circumstance  
66 exists;

67 (13) A person acts "recklessly" with respect to a result or to a  
68 circumstance described by a statute defining an offense when he is  
69 aware of and consciously disregards a substantial and unjustifiable  
70 risk that such result will occur or that such circumstance exists. The  
71 risk must be of such nature and degree that disregarding it constitutes  
72 a gross deviation from the standard of conduct that a reasonable  
73 person would observe in the situation;

74 (14) A person acts with "criminal negligence" with respect to a result  
75 or to a circumstance described by a statute defining an offense when  
76 he fails to perceive a substantial and unjustifiable risk that such result

77 will occur or that such circumstance exists. The risk must be of such  
78 nature and degree that the failure to perceive it constitutes a gross  
79 deviation from the standard of care that a reasonable person would  
80 observe in the situation;

81 (15) "Machine gun" means a weapon of any description, irrespective  
82 of size, by whatever name known, loaded or unloaded, from which a  
83 number of shots or bullets may be rapidly or automatically discharged  
84 from a magazine with one continuous pull of the trigger and includes  
85 a submachine gun;

86 (16) "Rifle" means a weapon designed or redesigned, made or  
87 remade, and intended to be fired from the shoulder and designed or  
88 redesigned and made or remade to use the energy of the explosive in a  
89 fixed metallic cartridge to fire only a single projectile through a rifled  
90 bore for each single pull of the trigger;

91 (17) "Shotgun" means a weapon designed or redesigned, made or  
92 remade, and intended to be fired from the shoulder and designed or  
93 redesigned and made or remade to use the energy of the explosive in a  
94 fixed shotgun shell to fire through a smooth bore either a number of  
95 ball shot or a single projectile for each single pull of the trigger;

96 (18) "Pistol" or "revolver" means any firearm having a barrel less  
97 than twelve inches;

98 (19) "Firearm" means any sawed-off shotgun, machine gun, rifle,  
99 shotgun, pistol, revolver or other weapon, whether loaded or  
100 unloaded from which a shot may be discharged, and any unfinished  
101 "frame or lower receiver", as that term is defined in this section;

102 (20) "Electronic defense weapon" means a weapon which by  
103 electronic impulse or current is capable of immobilizing a person  
104 temporarily, but is not capable of inflicting death or serious physical  
105 injury, including a stun gun or other conductive energy device;

106 (21) "Martial arts weapon" means a nunchaku, kama, kasari-fundo,  
107 octagon sai, tonfa or chinese star;

108 (22) "Employee of an emergency medical service organization"  
109 means an ambulance driver, emergency medical technician or  
110 paramedic, as defined in section 19a-175;

111 (23) "Railroad property" means all tangible property owned, leased  
112 or operated by a railroad carrier including, but not limited to, a right-  
113 of-way, track, roadbed, bridge, yard, shop, station, tunnel, viaduct,  
114 trestle, depot, warehouse, terminal or any other structure or  
115 appurtenance or equipment owned, leased or used in the operation of  
116 a railroad carrier including a train, locomotive, engine, railroad car,  
117 signals or safety device or work equipment or rolling stock;

118 (24) "Frame or lower receiver" means the part of a firearm that  
119 provides the action or housing for the hammer, bolt or breechblock  
120 and firing mechanism, and includes a frame or lower receiver blank,  
121 casting or machined body that requires further machining or molding  
122 to be used as part of a functional firearm, and which is designed and  
123 intended to be used in the "assembly", as that term is defined in section  
124 29-36, as amended by this act, of a functional firearm.

125 Sec. 2. Section 29-36 of the general statutes is repealed and the  
126 following is substituted in lieu thereof (*Effective October 1, 2018*):

127 (a) No individual shall complete the manufacture or assembly of a  
128 firearm without (1) obtaining a unique serial number or other mark of  
129 identification from the Department of Emergency Services and Public  
130 Protection pursuant to section 3 of this act, and (2) engraving upon or  
131 permanently affixing to the firearm such serial number or other mark  
132 in a manner that conforms with the requirements imposed on licensed  
133 importers and licensed manufacturers of firearms pursuant to 18 USC  
134 923(i), as amended from time to time, and any regulation adopted  
135 thereunder.

136 (b) No individual shall complete the manufacture or assembly of  
137 any firearm from polymer plastic, unless such plastic is embedded  
138 with three point seven ounces of material type 17-4 PH stainless steel  
139 and such firearm is engraved or otherwise marked with a unique serial

140 number or other mark of identification pursuant to subsection (a) of  
141 this section.

142 (c) Not later than thirty days after an individual completes  
143 manufacturing or assembling a firearm pursuant to this section, such  
144 individual shall notify the Department of Emergency Services and  
145 Public Protection and provide any identifying information to said  
146 department concerning the firearm and the owner of such firearm, in a  
147 manner provided by the Commissioner of Emergency Services and  
148 Public Protection.

149 [(a)] (d) No [person] individual shall remove, deface, alter or  
150 obliterate the name of any maker or model or any maker's number,  
151 unique serial number or other mark of identification on any firearm,  
152 [as defined in section 53a-3.] The possession of any firearm upon  
153 which any identifying mark, number or name has been removed,  
154 defaced, altered or obliterated shall be prima facie evidence that the  
155 [person] individual owning or in possession of such firearm has  
156 removed, defaced, altered or obliterated the same.

157 (e) No individual shall transfer to another individual any firearm  
158 manufactured or assembled in accordance with this section, except as  
159 provided in subdivision (2) of subsection (f) of this section.

160 (f) The provisions of this section shall not apply to (1) manufacture  
161 or assembly of firearms by a federally licensed firearm manufacturer,  
162 or (2) delivery or transfer of a firearm to a law enforcement agency.  
163 Any firearm delivered or transferred to a law enforcement agency  
164 pursuant to this subsection shall be destroyed by the law enforcement  
165 agency.

166 (g) No individual shall knowingly facilitate, aid or abet the  
167 manufacture or assembly of a firearm pursuant to this section by an  
168 individual or for an individual who is otherwise prohibited by law  
169 from owning or possessing a firearm.

170 [(b)] (h) Any [person] individual who violates any provision of this

171 section shall be guilty of a class C felony for which two years of the  
 172 sentence imposed may not be suspended or reduced by the court, and  
 173 five thousand dollars of the fine imposed may not be remitted or  
 174 reduced by the court unless the court states on the record its reasons  
 175 for remitting or reducing such fine, and any firearm found in the  
 176 possession of any [person] individual in violation of said provision  
 177 shall be forfeited.

178 (i) For purposes of this section, "manufacture" means to newly  
 179 fabricate or construct a firearm, "assembly" means the fitting together  
 180 of the component parts of a firearm to construct a firearm, "firearm"  
 181 means firearm, as defined in section 53a-3, as amended by this act, and  
 182 "law enforcement agency" means law enforcement agency, as defined  
 183 in section 29-1i.

184 Sec. 3. (NEW) (*Effective from passage*) The Department of Emergency  
 185 Services and Public Protection shall develop and maintain a system to  
 186 distribute a unique serial number or other mark of identification to any  
 187 individual requesting such number or mark in accordance with section  
 188 29-36 of the general statutes, as amended by this act. The department  
 189 shall maintain identifying information of the individual requesting the  
 190 number or mark and of the firearm for which each such number or  
 191 mark is requested.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	53a-3
Sec. 2	<i>October 1, 2018</i>	29-36
Sec. 3	<i>from passage</i>	New section

**Statement of Legislative Commissioners:**

In Section 2(a), an extraneous word was deleted and at the end of Section 2(f)(2), "by the law enforcement agency" was added for clarity.

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Department of Emergency Services and Public Protection	GF - Cost	Less than 10,000	Less than 10,000
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

There is a cost expected to be less than \$10,000 to the Department of Emergency Services and Public Protection (DESPP) resulting from the bill, which requires DESPP develop and maintain a system for providing serial numbers for ghost guns. The agency would likely have to modify an existing agreement with the third party vendor that currently provides services related to firearm serial numbers, resulting in a minimal cost.

The bill also expands the felony of alteration of a firearm and results in a potential cost or potential revenue gain. To extent that violators are prosecuted, the bill results in a potential cost to the Department of Correction for incarceration or Judicial Department for probation supervision. As of January 2018, there are 19 offenders incarcerated for the current offense and approximately 11 on probation. On average, the marginal cost to the state for incarcerating an offender for



the year is \$1,900<sup>1</sup> while the average marginal cost for supervision in the community is less than \$700<sup>2</sup> each year.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

<sup>2</sup> Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

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**OLR Bill Analysis**

**sHB 5540**

***AN ACT CONCERNING GHOST GUNS.***

**SUMMARY**

This bill subjects a firearm's unfinished "frame or lower receiver" to existing firearm regulation and restrictions by broadening the current definition of "firearm" to include them.

Under the bill, a "frame or lower receiver" means the part of the firearm that provides the action or housing for the hammer, bolt, or breechblock and firing mechanism. It includes a frame or lower receiver blank, casting, or machined body that requires further machining or molding to be used as part of a functional firearm, and which is designed and intended to be used to assemble a functional firearm (i.e., fit together a firearm's component parts to construct the firearm).

With the exception of firearm manufacturers, the bill also:

1. prohibits anyone from completing the manufacture or assembly of a firearm (i.e., ghost gun) without obtaining a serial number or identification mark from the Department of Emergency Services and Public Protection (DESPP) for it;
2. prohibits the manufacture or assembly of a firearm from polymer plastic unless the (a) firearm complies with the bill's requirements for serial numbers or identification marks and (b) plastic is embedded with 3.7 oz. of material type 17-4 PH stainless steel;
3. prohibits transferring manufactured or assembled firearms (i.e., ghost guns) except to law enforcement;

4. requires DESPP to develop and maintain a system to distribute serial numbers or identification marks for such firearms;
5. prohibits removing, defacing, altering, or obliterating a unique serial number on any firearm (the law already prohibits such actions related to other identifying marks on a firearm); and
6. prohibits knowingly facilitating, aiding, or abetting the manufacture or assembly of a firearm under the bill by an individual or for an individual who is otherwise lawfully prohibited from owning or possessing a firearm.

Under the bill, anyone who violates the bill's provisions related to (1) manufacturing or assembling firearms, (2) transferring such firearms, or (3) removing a firearm's serial number, is guilty of a class C felony, punishable by up to 10 years imprisonment, up to a \$10,000 fine, or both. Two years of the sentence may not be suspended or reduced by the court and \$5,000 may not be remitted or reduced. Any firearm found in violation of the bill must be forfeited.

EFFECTIVE DATE: October 1, 2018 except the provision requiring DESPP to create a system to distribute serial numbers is effective upon passage.

### **FIREARM REGULATION AND RESTRICTIONS**

By adding unfinished frames and lower receivers to the definition of "firearm", the bill subjects such parts to the regulations and restrictions of pistols and revolvers (i.e., handgun) or long guns, depending on the barrel length. By law, a handgun is a firearm with a barrel less than 12 inches, while a long gun is a firearm other than a handgun.

Among other things, existing law generally prohibits:

1. individuals from purchasing a firearm without a valid permit or eligibility certificate (CGS §§ 29-33(b), -37a(c));
2. retailers from selling, delivering, or transferring a firearm without DESPP authorization, which requires a national

criminal background check (CGS §§ 29-33(c), -37a(d)); and

3. certain individuals from possessing firearms (e.g., convicted felons, individuals subject to a restraining order, and individuals found not guilty of a crime by reason of a “mental disease or defect”) (CGS §§ 53a-217c, 29-28(b)).

Additionally, the (1) frame or lower receiver would also be subject to temporary seizure or revocation under certain circumstances (e.g., when a family violence crime has been committed or person is an imminent threat to hurt him or herself or others) and (2) owner’s firearm credential may be subject to revocation or nonrenewal for, among other things, committing certain crimes (CGS §§ 29-32, 29-38c, & 46b-38b(a)).

### **MANUFACTURE OR ASSEMBLY OF A FIREARM**

The bill prohibits anyone from completing the manufacture or assembly of a firearm without (1) first obtaining a unique serial number or other identification mark from DESPP and (2) engraving or permanently affixing the serial number or mark on the firearm in a way that conforms to the serial number requirements federal law and associated regulations impose on licensed firearm importers and manufacturers.

Under the bill, within 30 days of completing the manufacture or assembly of a firearm, the individual must notify DESPP and provide any identifying information concerning the firearm and the owner to the department in a manner the DESPP commissioner provides.

Under the bill, “manufacture” means to newly fabricate or construct a firearm and “assembly” means the fitting together of the firearm’s component parts to construct a firearm.

### ***DESPP System***

Under the bill, DESPP must develop and maintain a system to distribute a unique serial number or other identification mark to anyone requesting one. DESPP must maintain identifying information

of the individual requesting the number or mark.

**Transfers to Law Enforcement**

The bill generally prohibits anyone from transferring such manufactured or assembled firearms, except when delivering or transferring them to a law enforcement agency. A law enforcement agency must destroy any firearm delivered or transferred to it.

Under the bill, “law enforcement agency” means the State Police or any municipal police department.

**Exemption**

The bill’s requirements regarding serial numbers and identification marks do not apply to federally licensed firearm manufacturers manufacturing or assembling firearms.

**ALTERATIONS**

Current law prohibits individuals from removing, defacing, altering, or obliterating any maker’s name, model, number, or other identifying mark on a firearm. The bill extends the prohibition to unique serial numbers. As under current law, possessing a firearm with an altered serial number is prima facie evidence that the individual owning or possessing the firearm has altered the firearm.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 25 Nay 16 (04/03/2018)