
OLR Bill Analysis

sHB 7219 (as amended by House "A")*

AN ACT CONCERNING GHOST GUNS.

SUMMARY

This bill generally prohibits anyone from completing the manufacture of a firearm without subsequently obtaining and engraving or permanently affixing on it a unique serial number or other identification mark from the Department of Emergency Services and Public Protection (DESPP) (i.e., creating a “ghost gun”). The mark or number must be engraved or affixed in a way that conforms to the serial number requirements federal law and associated regulations impose on licensed firearm importers and manufacturers. This requirement does not apply if the frame or lower receiver of the firearm has such a serial number or identification mark. The bill requires DESPP to develop and maintain a system to distribute such serial numbers or identification marks.

The bill also prohibits:

1. manufacturing a firearm from polymer plastic that is less detectible by a walk-through metal detector than a security exemplar (i.e., an object used to test and calibrate metal detectors);
2. transferring the above “ghost guns,” except to law enforcement;
3. facilitating, aiding, or abetting the manufacture of a firearm (a) by or for an individual who is otherwise lawfully prohibited from owning or possessing a firearm or (b) that a person is otherwise prohibited by law from purchasing or possessing;
4. purchasing, receiving, selling, delivering, or transferring an unfinished frame or lower receiver without an identification mark or unique serial number or satisfying certain other

requirements; and

5. possessing an unfinished frame or lower receiver if the person is ineligible to possess a firearm under state or federal law.

The bill allows the court to suspend the criminal proceedings for the above violations under certain circumstances. During the suspension, the individual must comply with certain court-ordered conditions while in Court Support Services Division (CSSD) custody (i.e., on probation). The bill allows the court to dismiss the charges if the individual complies with the court order and successfully completes probation.

The bill additionally specifies that an individual may not remove, deface, alter, or obliterate a firearm's unique serial number. Existing law, unchanged by the bill, prohibits taking any such action to the maker or model name or the maker's number or identification mark on any firearm. The bill extends existing law's penalties for such actions to the bill's prohibition about unique serial numbers.

For the bill's purposes, a "firearm" is a sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded, from which a shot may be discharged.

*House Amendment "A", which replaces the underlying bill, primarily adds provisions to the original bill that are related to suspension of criminal proceedings and transactions involving unfinished frames and lower receivers.

EFFECTIVE DATE: October 1, 2019, except the provisions (1) requiring DESPP to establish a system for generating serial numbers or identification marks and (2) related to unfinished frames and lower receivers are effective upon passage.

MANUFACTURED FIREARMS

Obtaining Identifying Marks or Numbers

Under the bill, within 30 days of completing the manufacture of any firearm under the bill or within 90 days of DESPP providing notice

that the system is operational, whichever is later, the individual must notify DESPP and provide any identifying information about the firearm and its owner in a manner the DESPP commissioner prescribes. Under the bill, “manufacture” means to fabricate or construct a firearm, including initial assembly.

DESPP Requirements

DESPP, upon receiving a properly submitted request for a serial number or identification mark from someone who completed the manufacture of a firearm, must determine if the person is prohibited from purchasing a firearm. If not, it must issue the mark or number immediately, or no more than three days after receiving the request. The bill specifies that this issuance is not evidence that the firearm is otherwise lawfully possessed.

Firearms Made of Polymer Plastics

The bill also prohibits anyone from manufacturing a firearm from polymer plastic that, after removing grips, stocks, and magazines, is not as detectable as a security exemplar by a walk-through metal detector calibrated and operated to detect the exemplar (see BACKGROUND).

For these purposes, a firearm does not include a frame or receiver of such a weapon.

Penalty

Under the bill, it is a class C felony, punishable by up to ten years in prison with a two-year mandatory minimum sentence, up to a \$10,000 fine, or both, if a person:

1. fails to obtain and engrave an identification mark or serial number from DESPP on a manufactured firearm;
2. transfers such a firearm without an identifying mark or number to another person;
3. facilitates, aids, or abets the manufacture of a firearm (a) by or for a person who is otherwise prohibited by law from

purchasing or possessing a firearm or (b) that a person is otherwise prohibited by law from purchasing or possessing; or

4. manufactures a firearm from polymer plastic in violation of the bill's provisions.

There is a \$5,000 minimum fine unless the court states on the record its reasons for remitting or reducing it. Violators must forfeit any such firearms in their possession.

Exception

The bill makes exceptions to the above requirements for (1) firearms manufactured by a federally licensed firearm manufacturer; (2) antique firearms (see BACKGROUND); (3) firearms manufactured before October 1, 2019, provided the firearm is otherwise lawfully possessed; and (4) firearms that are delivered or transferred to a law enforcement agency.

UNFINISHED FRAMES OR LOWER RECEIVERS

Under the bill, an “unfinished frame or lower receiver” is a blank, casting, or machined body (1) intended to be turned into a firearm frame or lower receiver with additional machining and (2) that has been formed or machined to the point where most major machining operations have been completed to turn the blank, casting, or machined body into a frame or lower receiver, even if the fire-control cavity area is still completely solid and unmachined.

For the bill's purposes, an unfinished frame or lower receiver is not a firearm as defined under federal law (see BACKGROUND).

Transactions Involving Unfinished Frames or Lower Receivers

The bill limits the purchase, receipt, sale, delivery or transfer of an unfinished frame or lower receiver. It prohibits such actions if the frame or lower receiver does not have a unique serial number or identification mark obtained from the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF's) serial numbering program or DESPP. The prohibition does not apply to such actions between (1) a federally licensed firearm manufacturer and a federally licensed

firearm dealer, (2) a federally licensed firearm importer and a federally licensed firearm dealer, or (3) federally licensed firearm dealers. The bill also permits anyone to arrange in advance to deliver and transfer an unfinished frame or lower receiver to a police department or DESPP.

The bill generally allows a person to purchase, receive, sell, deliver or transfer an unfinished frame or lower receiver that has the required serial number or identification mark, provided he or she does so in accordance with the procedures in existing law for such actions involving a pistol or revolver. Thus, in order to take such actions, an individual must:

1. have a valid pistol or revolver permit or eligibility certificate or be a federal marshal, parole officer, or peace officer;
2. apply to DESPP and receive an authorization number before taking such actions;
3. ensure that the frame or lower receiver has a reusable trigger lock, gun lock, or gun locking device, as appropriate, unless the item is being sold at wholesale; and
4. provide a receipt for the sale, transfer, or delivery that includes the person's name and address, the date of sale, and certain information about the frame or lower receiver and send copies of the receipt to DESPP and the chief of police or first selectman of the town where the transferee resides.

Identifying Marks or Numbers

For these purposes, a person may obtain a unique serial number or identification mark from DESPP in the same manner as described above for manufactured firearms. If DESPP determines the person is not prohibited from purchasing a firearm, it must issue the serial number or identification mark within three days of receiving the request, or within ten business days after DESPP becomes operational, whichever is later.

The number must be engraved or permanently affixed to the frame or lower receiver in a manner that conforms with federal law's requirements for licensed firearms importers and manufacturers and associated regulations.

Illegal Possession

Starting October 1, 2019, the bill also prohibits anyone from possessing an unfinished frame or lower receiver if he or she is ineligible to possess a firearm under state or federal law.

Penalty

Under the bill, violation of any of the above requirements related to unfinished frames and lower receivers is generally a class C felony with a two-year mandatory minimum prison sentence. There is a \$5,000 minimum fine.

But if a person sells, delivers, or otherwise transfers an unfinished frame or lower receiver in violation of the bill's provisions, knowing that the frame or lower receiver is stolen or that the manufacturer's number or identification mark has been altered, removed, or obliterated, it is a class B felony with a three-year mandatory minimum sentence and a \$10,000 minimum fine.

For both penalties, the minimum fines may not be remitted or reduced unless the court states on the record its reasons for doing so. Violators must forfeit any such unfinished frame or lower receiver in their possession.

SUSPENDED CRIMINAL PROCEEDINGS

Under the bill, the court may suspend the prosecution of a person who violates any of the bill's requirements related to unfinished frames and lower receivers, polymer plastic firearms, or manufactured firearms, if it finds that:

1. the violation is not serious in nature,
2. the alleged violator will probably not offend in the future, and

3. he or she has not previously (a) been convicted of such a violation or (b) had a prosecution suspended for such a violation.

The court may only suspend the prosecution if the person acknowledges that he or she understands the consequences of the suspension.

A person whose prosecution is suspended must agree to (1) let the statute of limitations for the violation toll (i.e., pause) and (2) waive his or her right to a speedy trial. The person must appear in court, where he or she must then be released under court-ordered conditions to CSSD custody (i.e., placed on probation) for up to two years. If the person refuses to accept the court-ordered conditions, or accepts and then violates them, the court must terminate the suspension and the case must go to trial.

If the person satisfactorily completes the probation period, he or she may apply to have the charges dismissed, and the court, on finding the completion satisfactory, must dismiss the charges. If the person does not apply for dismissal after successfully completing probation, the court, after receiving a report from CSSD to that effect, may make a finding of satisfactory completion on its own motion and dismiss the charges. Upon dismissal, the records must be erased. The individual may appeal an order (1) denying the motion to dismiss the charges against him or her after he or she has completed probation or (2) terminating his or her program participation.

DESPP SYSTEM

Under the bill, by October 1, 2019, DESPP, in consultation with the ATF as needed, must develop and maintain a system to distribute a unique serial number or other identification mark to anyone requesting one as described above. It must provide written notice that the system is operational (1) on the DESPP website and (2) electronically to federally licensed firearm dealers. DESPP must maintain identifying information about the person requesting the number or mark and the firearm or unfinished frame or lower receiver for which the number or mark is requested.

BACKGROUND

Antique Firearm

Under federal law, an antique firearm is:

1. any firearm manufactured before 1899, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system;
2. any replica of such a firearm if it (a) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (b) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily commercially available; or
3. any muzzle-loading (a) rifle, (b) shotgun, or (c) pistol, designed to use black powder or a black powder substitute and that cannot use fixed ammunition.

The law specifies that “antique firearms” do not include any:

1. weapons that incorporate a firearm frame or receiver;
2. firearms that are converted into muzzle-loading weapons; or
3. muzzle-loading weapons that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination of such parts (18 U.S.C. § 921(16)).

Security Exemplar

A “security exemplar” is an object suitable for testing and calibrating metal detectors and constructed of (1) 3.7 ounces of material type 17-4 PH stainless steel in the shape of a handgun or (2) a lesser amount of material that the U.S. Attorney General determines is detectible in view of advances in state-of-the-art developments in weapons detection technology (18 U.S.C. § 922(p)).

Firearm

Under federal law, a firearm is a:

1. weapon (including a starter gun) that will or is designed to, or may readily be converted to, expel a projectile by the action of an explosive;
2. frame or receiver of any such weapon;
3. firearm muffler or firearm silencer; or
4. destructive device (18 U.S.C. § 921(a)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 12 (03/20/2019)