



House of Representatives

File No. 867

General Assembly

January Session, 2019

(Reprint of File No. 485)

Substitute House Bill No. 7219
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 9, 2019

AN ACT CONCERNING GHOST GUNS.

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

1 Section 1. Section 29-36 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) No person shall remove, deface, alter or obliterate the name of
4 any maker or model or any maker's number, unique serial number or
5 other mark of identification on any firearm as defined in section 53a-3.
6 The possession of any firearm upon which any identifying mark,
7 number or name has been removed, defaced, altered or obliterated
8 shall be prima facie evidence that the person owning or in possession
9 of such firearm has removed, defaced, altered or obliterated the same.

10 (b) Any person who violates any provision of this section shall be
11 guilty of a class C felony for which two years of the sentence imposed
12 may not be suspended or reduced by the court, and five thousand
13 dollars of the fine imposed may not be remitted or reduced by the
14 court unless the court states on the record its reasons for remitting or
15 reducing such fine, and any firearm found in the possession of any

16 person in violation of said provision shall be forfeited.

17 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) No person shall complete
18 the manufacture of a firearm without subsequently (1) obtaining a
19 unique serial number or other mark of identification from the
20 Department of Emergency Services and Public Protection pursuant to
21 subsection (b) of this section, and (2) engraving upon or permanently
22 affixing to the firearm such serial number or other mark in a manner
23 that conforms with the requirements imposed on licensed importers
24 and licensed manufacturers of firearms pursuant to 18 USC 923(i), as
25 amended from time to time, and any regulation adopted thereunder.

26 (b) Not later than thirty days after a person completes the
27 manufacture of a firearm or ninety days after the Department of
28 Emergency Services and Public Protection provides notice in
29 accordance with section 3 of this act that the system to distribute a
30 unique serial number or other mark of identification pursuant to this
31 section is operational, whichever date is later, such person shall notify
32 the department of such manufacture and provide any identifying
33 information to the department concerning the firearm and the owner
34 of such firearm, in a manner prescribed by the Commissioner of
35 Emergency Services and Public Protection. Upon receiving a properly
36 submitted request for a unique serial number or other mark of
37 identification from a person who completes manufacture of a firearm,
38 the department shall determine if such person is prohibited from
39 purchasing a firearm and if not, shall issue to such person a unique
40 serial number or other mark of identification immediately and in no
41 instance more than three business days after the department receives
42 such request. Issuance of a unique serial number or other mark of
43 identification pursuant to this subsection shall not be evidence that the
44 firearm is otherwise lawfully possessed.

45 (c) The provisions of subsections (a) and (b) of this section shall not
46 apply to the manufacture of a firearm manufactured using an
47 unfinished frame or lower receiver on which a serial number or other
48 mark has been engraved or permanently affixed pursuant to

49 subsection (c) of section 5 of this act.

50 (d) No person shall transfer to another person any firearm
51 manufactured in violation of this section.

52 (e) The provisions of this section shall not apply to (1) the
53 manufacture of firearms by a federally licensed firearm manufacturer,
54 (2) (A) any antique firearm, as defined in 18 USC 921, as amended
55 from time to time, or (B) any firearm manufactured prior to the
56 effective date of this section, provided such firearm is otherwise
57 lawfully possessed, or (3) delivery or transfer of a firearm to a law
58 enforcement agency.

59 (f) No person shall facilitate, aid or abet the manufacture of a
60 firearm (1) by a person or for a person who is otherwise prohibited by
61 law from purchasing or possessing a firearm, or (2) that a person is
62 otherwise prohibited by law from purchasing or possessing.

63 (g) If the court finds that a violation of this section is not of a serious
64 nature and that the person charged with such violation (1) will
65 probably not offend in the future, (2) has not previously been
66 convicted of a violation of this section, and (3) has not previously had a
67 prosecution under this section suspended pursuant to this subsection,
68 the court may order suspension of prosecution. The court shall not
69 order suspension of prosecution unless the accused person has
70 acknowledged that he or she understands the consequences of the
71 suspension of prosecution. Any person for whom prosecution is
72 suspended shall agree to the tolling of any statute of limitations with
73 respect to such violation and to a waiver of his or her right to a speedy
74 trial. Such person shall appear in court and shall be released to the
75 custody of the Court Support Services Division for such period, not
76 exceeding two years, and under such conditions as the court shall
77 order. If the person refuses to accept, or, having accepted, violates such
78 conditions, the court shall terminate the suspension of prosecution and
79 the case shall be brought to trial. If such person satisfactorily completes
80 such person's period of probation, he or she may apply for dismissal of

81 the charges against such person and the court, on finding such
82 satisfactory completion, shall dismiss such charges. If the person does
83 not apply for dismissal of the charges against such person after
84 satisfactorily completing such person's period of probation, the court,
85 upon receipt of a report submitted by the Court Support Services
86 Division that the person satisfactorily completed such person's period
87 of probation, may on its own motion make a finding of such
88 satisfactory completion and dismiss such charges. Upon dismissal, all
89 records of such charges shall be erased pursuant to section 54-142a of
90 the general statutes. An order of the court denying a motion to dismiss
91 the charges against a person who has completed such person's period
92 of probation or terminating the participation of a defendant in such
93 program shall be a final judgment for purposes of appeal.

94 (h) Any person who violates any provision of this section shall be
95 guilty of a class C felony for which two years of the sentence imposed
96 may not be suspended or reduced by the court, and five thousand
97 dollars of the fine imposed may not be remitted or reduced by the
98 court unless the court states on the record its reasons for remitting or
99 reducing such fine, and any firearm found in the possession of any
100 person in violation of any provision of this section shall be forfeited.

101 (i) For purposes of this section, "manufacture" means to fabricate or
102 construct a firearm including the initial assembly, "firearm" means
103 firearm, as defined in section 53a-3 of the general statutes, and "law
104 enforcement agency" means law enforcement agency, as defined in
105 section 29-1i of the general statutes.

106 Sec. 3. (NEW) (*Effective from passage*) Not later than October 1, 2019,
107 the Department of Emergency Services and Public Protection, in
108 consultation with the federal Bureau of Alcohol, Tobacco, Firearms
109 and Explosives as needed, shall develop and maintain a system to
110 distribute a unique serial number or other mark of identification to any
111 person requesting such number or mark pursuant to section 2 or 5 of
112 this act, and provide written notification that such system is
113 operational by: (1) Posting the notification on the department's Internet

114 web site, and (2) providing the notification electronically to federally
115 licensed firearm dealers. The department shall maintain identifying
116 information of the person requesting the number or mark and of the
117 firearm or unfinished frame or lower receiver for which each such
118 number or mark is requested.

119 Sec. 4. (NEW) (*Effective October 1, 2019*) (a) No person shall
120 manufacture any firearm from polymer plastic that, after removal of
121 grips, stocks and magazines, is not as detectible as the security
122 exemplar, by walk-through metal detectors calibrated and operated to
123 detect the security exemplar.

124 (b) If the court finds that a violation of this section is not of a serious
125 nature and that the person charged with such violation (1) will
126 probably not offend in the future, (2) has not previously been
127 convicted of a violation of this section, and (3) has not previously had a
128 prosecution under this section suspended pursuant to this subsection,
129 the court may order suspension of prosecution. The court shall not
130 order suspension of prosecution unless the accused person has
131 acknowledged that he or she understands the consequences of the
132 suspension of prosecution. Any person for whom prosecution is
133 suspended shall agree to the tolling of any statute of limitations with
134 respect to such violation and to a waiver of his or her right to a speedy
135 trial. Such person shall appear in court and shall be released to the
136 custody of the Court Support Services Division for such period, not
137 exceeding two years, and under such conditions as the court shall
138 order. If the person refuses to accept, or, having accepted, violates such
139 conditions, the court shall terminate the suspension of prosecution and
140 the case shall be brought to trial. If such person satisfactorily completes
141 such person's period of probation, he or she may apply for dismissal of
142 the charges against such person and the court, on finding such
143 satisfactory completion, shall dismiss such charges. If the person does
144 not apply for dismissal of the charges against such person after
145 satisfactorily completing such person's period of probation, the court,
146 upon receipt of a report submitted by the Court Support Services
147 Division that the person satisfactorily completed such person's period

148 of probation, may on its own motion make a finding of such
149 satisfactory completion and dismiss such charges. Upon dismissal, all
150 records of such charges shall be erased pursuant to section 54-142a of
151 the general statutes. An order of the court denying a motion to dismiss
152 the charges against a person who has completed such person's period
153 of probation or terminating the participation of a defendant in such
154 program shall be a final judgment for purposes of appeal.

155 (c) Any person who violates any provision of this section shall be
156 guilty of a class C felony for which two years of the sentence imposed
157 may not be suspended or reduced by the court, and five thousand
158 dollars of the fine imposed may not be remitted or reduced by the
159 court unless the court states on the record its reasons for remitting or
160 reducing such fine, and any firearm found in the possession of any
161 person in violation of any provision of this section shall be forfeited.

162 (d) For purposes of this section, "firearm" means firearm, as defined
163 in section 53a-3 of the general statutes, but does not include the frame
164 or receiver of any such weapon and "security exemplar" means
165 "security exemplar" as defined in 18 USC 922(p), as amended from
166 time to time, and any regulation adopted thereunder.

167 Sec. 5. (NEW) (*Effective from passage*) (a) No person shall purchase or
168 receive or sell, deliver or otherwise transfer an unfinished frame or
169 lower receiver, except as provided in: (1) Subsections (b) and (c) of this
170 section; or (2) subsection (d) of this section; or (3) subsection (e) of this
171 section.

172 (b) The procedures for the purchase or receipt or sale, delivery or
173 other transfer of an unfinished frame or lower receiver shall be the
174 same procedures as apply to the purchase or receipt or sale, delivery or
175 other transfer of a pistol or revolver under subsections (b) to (e),
176 inclusive, of section 29-33 of the general statutes, provided such
177 purchase or receipt or sale, delivery or other transfer of an unfinished
178 frame or lower receiver is in accordance with the provisions of
179 subsection (c) of this section.

180 (c) (1) No person shall sell, deliver or otherwise transfer an
181 unfinished frame or lower receiver pursuant to subsection (b) of this
182 section that does not have a unique serial number or other mark of
183 identification, obtained pursuant to: (A) The serial numbering program
184 of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, or
185 (B) subdivisions (2) and (3) of this subsection.

186 (2) A person may obtain a unique serial number or other mark of
187 identification for an unfinished frame or lower receiver by providing
188 to the Department of Emergency Services and Public Protection any
189 identifying information concerning the unfinished frame or lower
190 receiver and the owner of such unfinished frame or lower receiver, in a
191 manner prescribed by the Commissioner of Emergency Services and
192 Public Protection. Upon receiving a properly submitted request for a
193 unique serial number or other mark of identification for an unfinished
194 frame or lower receiver, the Department of Emergency Services and
195 Public Protection shall determine if such person is prohibited from
196 purchasing a firearm, and if not, shall issue to such person a unique
197 serial number or other mark of identification immediately and in no
198 instance more than (A) three business days after the Department of
199 Emergency Services and Public Protection receives such request, or (B)
200 ten business days after the system to distribute a unique serial number
201 or other mark of identification pursuant to section 3 of this act is
202 operational, whichever date is later.

203 (3) Such unique serial number or other mark of identification shall
204 be engraved upon or permanently affixed to the unfinished frame or
205 lower receiver in a manner that conforms with the requirements
206 imposed on licensed importers and licensed manufacturers of firearms
207 pursuant to 18 USC 923(i), as amended from time to time, and any
208 regulation adopted thereunder.

209 (d) The provisions of subsections (a) to (c), inclusive, of this section
210 shall not apply to the sale, delivery or transfer of any unfinished frame
211 or lower receiver between (1) a federally licensed firearm
212 manufacturer and a federally licensed firearm dealer, (2) a federally

213 licensed firearm importer and a federally licensed firearm dealer, or (3)
214 federally licensed firearm dealers.

215 (e) Any person may arrange in advance to deliver and transfer an
216 unfinished frame or lower receiver to a police department or the
217 Department of Emergency Services and Public Protection.

218 (f) On and after October 1, 2019, no person shall possess an
219 unfinished frame or lower receiver unless such person is eligible to
220 purchase a firearm under state and federal law.

221 (g) If the court finds that a violation of this section is not of a serious
222 nature and that the person charged with such violation (1) will
223 probably not offend in the future, (2) has not previously been
224 convicted of a violation of this section, and (3) has not previously had a
225 prosecution under this section suspended pursuant to this subsection,
226 the court may order suspension of prosecution. The court shall not
227 order suspension of prosecution unless the accused person has
228 acknowledged that he or she understands the consequences of the
229 suspension of prosecution. Any person for whom prosecution is
230 suspended shall agree to the tolling of any statute of limitations with
231 respect to such violation and to a waiver of his or her right to a speedy
232 trial. Such person shall appear in court and shall be released to the
233 custody of the Court Support Services Division for such period, not
234 exceeding two years, and under such conditions as the court shall
235 order. If the person refuses to accept, or, having accepted, violates such
236 conditions, the court shall terminate the suspension of prosecution and
237 the case shall be brought to trial. If such person satisfactorily completes
238 such person's period of probation, he or she may apply for dismissal of
239 the charges against such person and the court, on finding such
240 satisfactory completion, shall dismiss such charges. If the person does
241 not apply for dismissal of the charges against such person after
242 satisfactorily completing such person's period of probation, the court,
243 upon receipt of a report submitted by the Court Support Services
244 Division that the person satisfactorily completed such person's period
245 of probation, may on its own motion make a finding of such

246 satisfactory completion and dismiss such charges. Upon dismissal, all
247 records of such charges shall be erased pursuant to section 54-142a of
248 the general statutes. An order of the court denying a motion to dismiss
249 the charges against a person who has completed such person's period
250 of probation or terminating the participation of a defendant in such
251 program shall be a final judgment for purposes of appeal.

252 (h) Any person who violates any provision of this section shall be
253 guilty of a class C felony for which two years of the sentence imposed
254 may not be suspended or reduced by the court, and five thousand
255 dollars of the fine imposed may not be remitted or reduced by the
256 court unless the court states on the record its reasons for remitting or
257 reducing such fine, except that any person who sells, delivers or
258 otherwise transfers an unfinished frame or lower receiver in violation
259 of the provisions of this section knowing that such unfinished frame or
260 lower receiver is stolen or that the manufacturer's number or other
261 mark of identification on such unfinished frame or lower receiver has
262 been altered, removed or obliterated, shall be guilty of a class B felony
263 for which three years of the sentence imposed may not be suspended
264 or reduced by the court, and ten thousand dollars of the fine imposed
265 may not be remitted or reduced by the court unless the court states on
266 the record its reasons for remitting or reducing such fine, and any
267 unfinished frame or lower receiver found in the possession of any
268 person in violation of any provision of this section shall be forfeited.

269 (i) For purposes of this section, "unfinished frame or lower receiver"
270 means a blank, casting or machined body intended to be turned into
271 the frame or lower receiver of a firearm, as defined in section 53a-3 of
272 the general statutes, with additional machining, and which has been
273 formed or machined to the point where most major machining
274 operations have been completed to turn the blank, casting or machined
275 body into a frame or lower receiver of a firearm, even if the fire-control
276 cavity area of such blank, casting or machined body is still completely
277 solid and unmachined. An "unfinished frame or lower receiver" is not
278 a firearm, as defined in 18 USC 921(a), as amended from time to time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	29-36
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2019</i>	New section
Sec. 5	<i>from passage</i>	New section

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 20 \$	FY 21 \$
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 as amended, 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 as amended also expands the felony of alteration of a firearm and results in a potential cost from incarceration or potential revenue gain from fines. To the extent that violators are prosecuted, the bill as amended results in a potential cost to the Department of Correction for incarceration or Judicial Department for probation supervision. As of February 2019, there are 10 offenders incarcerated for the current offense and 16 on probation. On average, the marginal

cost to the state for incarcerating an offender for the year is \$1,900¹ while the average marginal cost for supervision in the community is less than \$700² each year.

“House A” made various changes related to enforcement of violations in the underlying bill. This has no fiscal impact.

The Out Years

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

¹ 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.

² 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.

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 detectible 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)