



PA 19-6—sHB 7219

Judiciary Committee

AN ACT CONCERNING GHOST GUNS

SUMMARY: This act prohibits anyone from creating what is commonly referred to as a “ghost gun.” It does so by generally prohibiting anyone from completing the manufacture of a firearm without subsequently (1) obtaining a unique serial number or other identification mark from the Department of Emergency Services and Public Protection (DESPP) and (2) engraving or permanently affixing it to the firearm. The mark or serial number must be engraved or affixed in a way that conforms to the requirements that 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 act requires DESPP to develop and maintain a system to distribute such serial numbers or identification marks.

The act also prohibits anyone from:

1. transferring any such “ghost guns,” except to law enforcement;
2. 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);
3. facilitating, aiding, or abetting the manufacture of a firearm (a) by or for an individual who is otherwise prohibited by law 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 act allows the court, under certain circumstances, to suspend the prosecution of a person accused of committing any of the above prohibited acts. During the suspension, the individual must comply with court-ordered conditions while in Court Support Services Division (CSSD) custody (i.e., on probation). The act allows the court to dismiss the charges if the individual complies with the court order and successfully completes probation.

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

EFFECTIVE DATE: October 1, 2019, except the provisions (1) requiring

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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

For the act'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.

Obtaining Identifying Marks or Numbers

Under the act, within 30 days after completing the manufacture of a firearm or within 90 days after DESPP provides notice that its serial number and identification mark system is operational, whichever is later, an individual must notify DESPP and provide any identifying information about the firearm and its owner in a manner the DESPP commissioner prescribes. Under the act, "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, the department must issue the mark or number immediately or no more than three business days after receiving the request. The act specifies that this issuance is not evidence that the firearm is otherwise lawfully possessed.

Firearms Made of Polymer Plastics

The act 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 act, it is a class C felony (see [Table on Penalties](#)) if a person:

1. fails to obtain an identification mark or serial number from DESPP and engrave it 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

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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 act'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.

Exceptions

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

UNFINISHED FRAMES OR LOWER RECEIVERS

Definition

Under the act, 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 act'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 act 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) 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 act also allows anyone to arrange in advance to deliver and transfer an unfinished frame or lower receiver to a police department or DESPP.

The act 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

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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. first apply to DESPP and receive an authorization number;
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;
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
5. 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 after receiving the request or within 10 business days after the DESPP system 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 act 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 act, 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 and a \$5,000 minimum fine.

But if a person sells, delivers, or otherwise transfers an unfinished frame or lower receiver in violation of the act'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

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Under the act, the court may suspend the prosecution of a person who violates any of the act'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 for whom 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 and 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.

Dismissal of Charges and Record Erasure

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 act, 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

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

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steel in the shape of a handgun or (2) a lesser amount of material that the U.S. Attorney General determines is detectable 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)).