
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 1621 **Hearing Date:** June 8, 2022
Author: Gipson
Version: March 24, 2022
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: unserialized firearms*

HISTORY

Source: Brady Campaign; Giffords Law Center to Prevent Gun Violence; Everytown for Gun Safety; Moms Demand Action for Gun Sense, California Chapter

Prior Legislation: AB 1057 (Petrie-Norris), Ch. 682, Stats. of 2021
AB 879 (Gipson), Ch. 730, Stats. of 2019
SB 746 (Portantino), Ch. 780, Stats. of 2018
AB 857 (Cooper), Ch. 60, Stats. of 2016
AB 1673 (Gipson, 2016), vetoed by the Governor
SB 808 (de Leon, 2013), vetoed by the Governor
AB 2011 (Hertzberg), Ch. 911, Stats. of 1998

Support: Brady California; City of San Diego; County of San Diego; Students Demand Action

Opposition: California Rifle and Pistol Association

Assembly Floor Vote: 63 - 0

PURPOSE

The purpose of this bill is to revise various definitions relating to firearm precursor parts and unserialized firearms and establish various restrictions on the possession, sale, transfer, manufacture and assembly of unserialized firearms and firearm precursor parts, subject to exceptions.

Existing federal law defines firearm as any weapon which will or is designed to or may be readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device (not including an antique firearm. (18 U.S.C. §921(a)(3).)

Existing federal law requires federally licensed importers and manufacturers of firearms to identify each firearm imported or manufactured by a serial number engraved or cast on the receiver or frame of the weapon. (18 U.S.C. §921(i).)

Existing federal law makes it unlawful for any person to knowingly transport, ship, receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated or altered, or to possess or receive any firearm which has had

the serial number removed, obliterated or altered and has at any time been shipped or transported in interstate or foreign commerce. (18 U.S.C §922(k).)

Existing federal law makes it unlawful to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not as detectable by walk-through metal detection as a security exemplar containing 3.7 oz. of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. (18 U.S.C. § 922(p).)

Existing state law defines a “firearm” as “a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Penal Code §16520(a).)

Existing law defines a “firearm” for specified other provisions as including the frame or receiver. (Penal Code §16520(b).)

Existing law defines a “firearm,” for specified provisions of the Penal Code, to include the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver. (Penal Code §16520(g).)

Existing law defines a “firearm precursor part” as a component of a firearm necessary to assemble a firearm and is described as either an unfinished receiver, as specified, or unfinished handgun frame. (Penal Code, § 16531(a).)

Existing law specifies that a firearm precursor part is not a firearm or the frame or receiver thereof, and that a firearm precursor part that is attached or affixed to a firearm is not subject to specified provisions. (Penal Code, § 16531(d).)

Existing law defines “firearm precursor part vendor” as a person or business enterprise that holds a valid firearm precursor part vendor license, as specified. (Penal Code, § 16532(a).)

Existing law, effective July 1, 2022, authorizes the Attorney General, a district attorney, or a city attorney to bring an action to enjoin the importation into the state or sale of any firearm precursor part that is imported into the state or sold within the state in violation of specified provisions. (Penal Code §18010(d)(1).)

Existing law provides that, commencing July 1, 2022, firearm precursor parts that are imported into the state or sold within the state are a nuisance and are subject to confiscation and destruction. (Penal Code §18010(d)(2).)

Existing law prohibits any person from changing, altering, removing or obliterating the name of the maker, model, manufacturer’s number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make that change. (Penal Code §23900.)

Existing law authorizes the DOJ, upon request, to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification, or a distinguishing number or mark assigned by the department has been destroyed or obliterated. (Penal Code, § 23910.)

Existing law makes it a misdemeanor, subject to exceptions, for any person to buy, receive, dispose of, sell, offer for sale, or possess any firearm that has had any identifying number or mark, as specified, changed, altered, obliterated or removed, if that person had knowledge of the change. (Penal Code §§23920, 23925.)

Existing law provides that no person shall sell or otherwise transfer ownership in a handgun unless the firearm bears specified identifying marks imprinted by the manufacturer or assigned by the DOJ. (Penal Code §27530.)

Existing law defines “manufacturing” or “assembling” a firearm as fabricating or constructing a firearm or, or fitting together the component parts of a firearm to construct a firearm, and imposes various corresponding requirements related the assignment and attachment of an identifying serial number. (Penal Code §29180.)

Existing law prescribes a process by which the DOJ shall accept and grant applications in the form of serial numbers to persons who wish to manufacture or assemble firearms. (Penal Code §29182.)

Existing law, effective July 1, 2022, establishes a process whereby firearm precursor parts may only be sold by a person or entity with a firearm precursor part vendor license issued by the DOJ, and imposes various restrictions and requirements related thereto. (Penal Code §§30400 et. seq.)

Existing law requires firearms to be centrally registered at the time of transfer or sale by way of transfer forms centrally compiled by the DOJ. The DOJ is required to keep a registry from data sent to the DOJ indicating who owns what firearm by make, model, and serial number and the date thereof. (Pen. Code, §11106(a), (c).)

This bill sets forth several legislative findings and declarations, including, in part:

- The proliferation of unserialized ghost guns built from firearm precursor parts has caused enormous harm and suffering, hampered the ability of law enforcement to trace crime guns and investigate firearm trafficking and other crimes, and dangerously undermined the effectiveness of laws and protections critical to the health, safety, and well-being of Californians.
- Law enforcement officials from cities across California have reported massive increases in the number of unserialized self-assembled ghost guns recovered from homicide cases and other crimes in recent years.
- Whatever legitimate interest and enjoyment unlicensed firearm manufacturers have in assembling firearms from firearm precursor parts, as opposed to completed frames or receivers, has been substantially outweighed by the devastating violent harms Californians have suffered as a result of the alarming proliferation of unserialized ghost guns across the state.
- The Legislature seeks to protect public health and safety by halting the sale of firearm precursor parts in California until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.

This bill defines a “federal licensee authorized to serialize firearms” as a person, firm, corporation, or other entity that holds any valid federal firearms license that authorizes the person, firm, corporation, or other entity to imprint serial numbers onto firearms pursuant to specified federal law.

This bill defines a “federally licensed manufacturer or importer” as a person or entity that holds a valid license to manufacture or import firearms pursuant to federal law.

This bill, for specified provisions of the Penal Code, revises the definition of “firearm” to include a firearm precursor part, and makes conforming technical changes.

This bill revises the definition of “firearm precursor part” to mean any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

This bill defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with such serial number.”

This bill provides that the DOJ is authorized but not required to assign a distinguishing number or mark of identification to any firearm whenever the manufacturer’s number or other assigned distinguishing number has been destroyed or obliterated.

This bill provides that any person who knowingly possesses or imports any firearm that does not have a valid serial number or mark of identification, as defined, is guilty of a misdemeanor.

This bill provides that the following conduct does not constitute a misdemeanor per the provision above:

- Possession of a firearm that is not a handgun and was assembled before December 16, 1968.
- Possession of a firearm that was registered with the DOJ prior to July 1, 2018 and has a serial number or identifying mark.
- Possession of a firearm that is a curio, relic, or antique firearm, as specified.
- Possession of a firearm by a federally licensed firearms manufacturer or importer, or any other federal licensee authorized to serialize firearms.
- The possession of a firearm by a person who, before July 1, applied to the DOJ in good faith for a serial number or identifying mark, as specified, and is otherwise in compliance of the law
- The possession of a firearm by a new resident who applies in good faith for a serial number or identifying mark within 60 days of arrival. Such an application after the expiration of the 60-day period shall not constitute probable cause for a misdemeanor violation for unlawful possession or importation of an unserialized firearm.

This bill prohibits the sale or transfer of a firearm that is not imprinted with a valid serial number or mark of identification, except for specified older guns, antiques, curios and relics.

This bill requires a person who assembles a firearm to notify DOJ and provide the department with specified information sufficient to identify the owner of the firearm, the serial number of the frame or receiver, and a description of the firearm.

This bill provides that any person who owns an unserialized firearm or firearm precursor part shall be deemed to be in compliance with the bill's requirements if they apply to the DOJ for a unique serial number, affix that number to the firearm, and notify the DOJ by July 1, 2023.

This bill provides that no person, other than a federally licensed manufacturer or importer, shall sell or transfer ownership of a firearm in this state that is manufactured or assembled by that person except by operation of law.

This bill prohibits a person, corporation, or firm from knowingly manufacturing or assembling, or knowingly causing, allowing, facilitating, aiding or abetting the manufacture or assembling of a firearm that is not imprinted with a valid serial number or mark of identification.

This bill authorizes the DOJ to accept and discretionarily grant applications, based on specified criteria, from persons wishing to serialize or mark their firearm, as defined, or firearm precursor part.

This bill provides that only a federally licensed firearms manufacturer or importer can possess or obtain a computer numerical control (CNC) milling machine that, as its primary function, manufactures firearms, with exceptions for entities selling CNCs to federally licensed manufacturers, common carriers, and any member of the armed forces, law enforcement or forensic laboratory acting in the scope of their employment.

This bill provides that, subject to limited exceptions, it is unlawful for a person to sell, offer to sell or transfer ownership of an unserialized firearm precursor part to a person or entity that is not a federally licensed firearms manufacturer or importer or a federal licensee authorized to sell firearms.

This bill provides that, subject to limited exceptions, it is unlawful for a person or entity other than a federally licensed manufacturer, importer, or firearms seller to purchase or receive an unserialized firearm precursor part.

This bill repeals specified laws regulating firearm precursor part vendors and makes appropriate technical changes.

This bill authorizes the DOJ to adopt emergency regulations to implement its provisions.

This bill contains a severability clause.

COMMENTS

1. Need for This Bill

According to the Author:

Even before the COVID-19 pandemic, stories from families of gun violence have kept me up at night. My own son and his fiancé were victims... and this issue has

only gotten worse. In the community of Watts which I represent, there were 22 homicides from January through November of 2020, nearly double the number from the year before. For communities alike, gun violence is a wildfire that we work diligently trying to contain. And the casualties are our babies, sisters, brothers, friends, and acquaintances - all deserving of life but were cut short of their potential. To say that this issue is personal to me is an understatement, and sending thoughts and prayers just isn't enough. AB 1621 seeks to eradicate ghost guns from our streets, and this effort is nothing short of a life-saving, common-sense approach toward providing justice for families who have continued to bear the burden of losing a loved one through incidents that could have otherwise been prevented. My heart breaks every single time I hear of another life lost from senseless gun violence. Not one more rally. Not one more vigil. Not one more shooting. We need the comprehensive solutions - this is wholeheartedly about saving lives, and nothing less.

2. The Proliferation of “Ghost Guns” in California

In the United States, traditional firearms are produced by licensed manufacturers and sold through licensed gun dealers. Federal law requires all guns manufactured in the United States and imported from abroad to have serial numbers, typically displayed on the back of the frame. By contrast, “ghost guns” are manufactured in parts which can be acquired without a background check and can easily be assembled by an unlicensed buyer. Ghost guns are designed to avoid regulation by being sold in DIY kits containing their component parts, which, individually, are unregulated, but when assembled form a fully functional firearm. Ghost guns are also unserialized, meaning they cannot be traced by law enforcement. According to recent reporting by the New York Times:

The criminal underground has long relied on stolen weapons with filed-off serial numbers, but ghost guns represent a digital-age upgrade, and they are especially prevalent in coastal blue states with strict firearm laws. Nowhere is that truer than in California, where their proliferation has reached epidemic proportions [...] Over the past 18 months, the officials said, ghost guns accounted for 25 to 50 percent of firearms recovered at crime scenes. The vast majority of suspects caught with them were legally prohibited from having guns.¹

California's major cities are at the epicenter of this crisis. During the first half of 2021, the Los Angeles Police Department confiscated 863 ghost guns, representing a 300% increase over the previous year. Since 2017, the department has seen a 400% increase in ghost gun seizures.² In Oakland, 23% of the firearms seized by police officers last year were ghost guns, and police in San Francisco seized 194 ghost guns as of December 7, 2021, representing 20% of all guns seized by the city's police department that year. By way of comparison, not one firearm seized by the SFPD in 2015 was a ghost gun.³ And just a few months ago, in Sacramento, a man used an unregistered homemade automatic

¹ Thrush, Glenn. “Ghost Guns’: Firearm Kits Bought Online Fuel Epidemic of Violence.” Originally published 14 November 2021; updated 26 January 2022. <https://www.nytimes.com/2021/11/14/us/ghost-guns-homemade-firearms.html>

² “LAPD declares ‘ghost guns’ an epidemic, citing 400% increase in seizures.” *Los Angeles Times*. 15 October 2021. <https://www.latimes.com/california/story/2021-10-15/lapd-says-ghost-guns-an-epidemic-with-seizures-up-400-since-2017>

³ “Oakland joins growing list of California cities to ban ghost guns.” *San Jose Mercury News*. 18 January 2022. <https://www.mercurynews.com/2022/01/18/oakland-joins-growing-list-of-california-cities-to-ban-ghost-guns/>

rifle to kill his three daughters, a chaperone, and himself in a local church. At the time of the shooting, the killer was under a restraining order prohibiting him from possessing a firearm.⁴

3. This Bill Repeals and Significantly Revises Provisions of Law Related to Unserialized Firearms and Precursor Parts

Until recently, California law only imposed restrictions on parties that manufactured or assembled firearm components, or “firearm precursor parts,” and parties that knowingly possessed unserialized firearms – it did not regulate the sale of such parts.⁵ In 2019, however, the Legislature adopted AB 879 (Gipson, Ch. 730, Stats. of 2019), which established a new regulatory framework for firearm precursor parts, and required, among other things, all such parts to be sold in-person through a licensed vendor.⁶ Under AB 879, the sale of precursor parts is regulated in much the same manner as the sale of ammunition.⁷ Existing law enacted by AB 879 also prohibits the sale of firearm precursor parts to a person under 21 years of age and specified prohibited persons, and forbids possession of a precursor part by specified prohibited persons. Under that measure, the DOJ was required to begin accepting applications for precursor part vendor licenses on April 1, 2022, and regulations for the implementation of AB 879’s licensing provisions were adopted by DOJ on the same day.⁸ Most of AB 879’s provisions do not become effective until July 1, 2022. Citing the rapid spread of ghost guns and the damage they have inflicted since the passage of AB 879, the Author argues that that framework is no longer sufficient, and seeks to replace it with this legislation.

According to one of the sponsors of this bill, the Brady Campaign, the AB 879 framework does not adequately target ghost guns. They write:

Even when the new law takes effect, it will not require vendors to sell precursor parts with serial numbers already affixed and instead will rely on purchasers to apply for and affix serial numbers themselves—a process that is currently rife with non-compliance. The new law also fails to treat sales of precursor parts the same as sales of firearms. The background check will not check entries in the national database that is used for firearms purchases, there are no waiting periods or age restrictions, and there are no limits on the number of precursor parts that can be purchased, as there are for firearms.

This bill repeals the provisions of AB 879 from existing law almost entirely, and replaces them with a more far-reaching framework, which, according to the Author, “seeks to halt the sale of firearm precursor parts until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.” The bill’s major provisions are discussed below.

⁴ “Man used “ghost gun” to kill 3 daughters in Northern California church.” *Associated Press*. 7 March, 2022. <https://www.pe.com/2022/03/07/man-used-ghost-gun-to-kill-3-daughters-in-northern-california-church/>

⁵ These restrictions were enacted by AB 857 (Cooper) Ch. 60, Stats. of 2016.

⁶ Penal Code §§30400 et. seq., 30412.

⁷ Ammunition is regulated by PC §§30210-30395, and many of the provisions are similar in structure and effect to those related to firearm precursor parts.

⁸ For the text of the adopted regulations, see <https://oag.ca.gov/system/files/media/bof-fppvl-text-of-prop-regs-040122.pdf>

4. Effect of This Bill

a. Definitions

This bill creates and revises several definitions related to firearms and firearm precursor parts. Existing law defines “firearm precursor part” as a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished receiver, as specified, or an unfinished handgun frame.⁹ This bill would establish a significantly different definition of “firearm precursor part,” primarily in order align California’s definition of the term with a new federal definition of “unfinished frame or receiver” that will go into effect via regulation in August 2022 (discussed further in Comment 5, below). Additionally, whereas existing law defines “firearm,” for numerous specified Penal Code provisions, as including the frame or receiver (i.e. a ‘completed’ frame or receiver), it does not include firearm precursor parts (i.e. an ‘unfinished’ frame or receiver) in that definition. This bill includes “firearm precursor part” in the definition of “firearm” for these specified provisions, effectively aligning the law’s treatment of completed frames and receivers with its treatment of unfinished frames and receivers.

In keeping with the bill’s near wholesale repeal of AB 879, it repeals the existing definition of “firearm precursor part vendor” and does not create a new definition. Coupled with the more inclusive definition of “firearm” discussed above, this has the practical effect of designating licensed firearm and ammunition vendors as precursor part vendors. This bill also defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with a serial number.” Additionally, the bill creates definitions for “federal licensee authorized to serialize firearms” and “federally licensed manufacturer or importer. As explained below, these three definitions work in conjunction with other provisions of this bill to ban the sale, transfer, purchase and receipt of precursor parts that are not federally required to have a serial number.

b. Prohibitions Related to Unserialized Firearms and Precursor Parts

This bill creates a new statutory scheme that generally prohibits the sale, possession, import and transfer of unserialized firearms and firearm precursor parts. This is achieved via the imposition of several individual yet interrelated prohibitions. For the purpose of these prohibitions, the term “firearm” includes a firearm precursor part. First, this bill makes it a misdemeanor to knowingly possess or import into the state any firearm that does not have a “valid serial number or mark of identification,” defined as a federally assigned serial number, a serial number assigned by DOJ, or a serial number or mark of identification issued by another state. Exempt from this prohibition are various types of individuals and entities: members of the military, police, employees of forensic labs, federally licensed manufacturers, people lawfully disposing of firearms, people with older weapons¹⁰, people who have applied to the DOJ for a serial number by July 1, 2023, and new residents who have applied to the DOJ for a serial number within 60 days of arrival.¹¹

⁹ Penal Code §16531

¹⁰ Such as curios, relics, antique weapons and firearms produced before December 16, 1968.

¹¹ This provision of the bill includes intent language expressing the intent of the Legislature to encourage rather than deter people possessing unserialized firearms to make a good faith effort to bring those firearms into compliance.

Second, the bill prohibits sale or transfer of an unserialized firearm, except for non-handgun firearms assembled prior to December 1968 and curios, relics or antiques.

Third, the bill prohibits any person, corporation or firm from knowingly manufacturing or assembling, or knowingly causing or assisting in the manufacture, of an unserialized firearm, without exception.

Fourth, this bill prohibits any person, other than a federally licensed manufacturer or importer, from selling or transferring a firearm that is assembled by that person, except by operation of law. This provision effectively expands an existing prohibition on the sale or transfer of privately built firearms assembled from unserialized parts to any privately built firearm. Because the bill's provisions generally require that firearms and precursor parts be serialized prior to sale, both private and licensed manufacturers would no longer be required to apply to DOJ for a serial number after completing the assembly of a firearm, as is required under existing law. Rather, for the manufacture or assembly of any firearm, including by licensed manufacturers, this bill requires the submission of specified information to the DOJ about the firearm assembled.

Fifth, and finally, this bill prohibits the sale, offer for sale or transfer of an unserialized firearm precursor part to any party except for a federal licensee, and prohibits the purchase or receipt of an unserialized firearm precursor part by any party except for a federal licensee. Recall that the bill defines "unserialized firearm precursor part" as a precursor part that is not imprinted with a serial number and not federally required to be imprinted with a serial number.

Despite these numerous prohibitions, this bill would still permit any owner of an unserialized firearm or precursor part to bring their firearm or precursor part into compliance by applying to the DOJ for a serial number by July 1, 2023, permanently affixing it to their firearm or part within 10 days of receipt, and subsequently notifying the DOJ. Thus, cumulatively, the prohibitions contained in this bill would permit individuals to acquire, continue to possess, or assemble firearms as long as they are serialized pursuant to state and federal law.

c. Prohibitions Related to Computer Numerical Control Milling Machines

Computer numerical control (CNC) milling machines are machines capable of automatically processing raw materials such as metal, plastic, wood or composite into digitally modeled shapes based solely on programmed instructions, without the need for a human operator. 3D printers are an example of a CNC milling machine that has grown more common in recent years. The world's first 3D-printed gun was produced in 2013, and since then, CNC milling machines have grown significantly in popularity as a method for the home manufacture of firearms. For instance, a company known as "Ghost Gunner" is currently marketing its latest CNC milling machine, the Ghost Gunner 3, which costs only \$2,500 and comes with programmed code to complete several fully functional assault-style weapons.¹² A review of an earlier model noted that the machine, worked so well that it may signal a new era in the gun control debate, one where the barrier to legally building an untraceable, durable, and deadly semiautomatic rifle has reached an unprecedented low point in cost and skill."¹³

¹² <https://ghostgunner.net/product/ghost-gunner-3-deposit/>

¹³ "I made an untraceable AR-15 Ghost Gun in my office – and it was easy." *WIRED Magazine*. 3 June, 2015. <https://www.wired.com/2015/06/i-made-an-untraceable-ar-15-ghost-gun/>

Existing California law contains no restrictions regarding the sale or possession of CNC milling machines. This bill makes it unlawful to sell, offer to sell, or transfer a CNC milling machine that has the sole or primary function of manufacturing firearms to any person other than a federally licensed firearms manufacturer or importer. Additionally, the bill prohibits the possession, purchase, or receipt of a CNC milling machine intended to produce firearms by anyone other than a federally licensed manufacturer or importer. However, the bill does include some exceptions to these prohibitions, namely for entities that sell CNC milling machines to federal licensees, common carriers, and members of the armed forces or law enforcement.

d. Modifications to DOJ's Serialization Responsibilities

Existing law provides that the DOJ may assign a serial number or other distinguishing mark to any firearm when that firearm lacks a manufacturer's number or other mark of identification. Further, when the manufacturer's number or other identifying mark, including a serial number assigned by the DOJ, has been destroyed, existing law requires the DOJ to assign a new serial number or identifying mark. This bill instead authorizes the DOJ to assign a new identifying mark or serial number when the existing number or mark has been destroyed. Additionally, this bill authorizes, rather than requires, the DOJ to accept and grant applications for firearm serial numbers to persons who wish to own a firearm or precursor part that does not otherwise have a valid serial number or identifying mark. Ostensibly, this new permissive approach gives DOJ greater discretion to deny applications for a serial number and avoid assigning serial numbers to unlawfully owned firearms.

5. Recent Federal Regulations

On April 7, 2021, President Biden announced various executive actions to address gun violence, including a directive to the Department of Justice to issue a regulatory rule regarding ghost guns. The rule, promulgated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) was submitted on April 11, 2022 with the stated goal of ensuring “the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by federal firearms licensees.”¹⁴ The rule is set to go into effect on August 24, 2022.

Existing federal law requires federally licensed firearm dealers and manufacturers (“FFLs”) to “identify by means of a serial number engraved or cast on the receiver or frame of the weapon” each firearm manufactured in, or imported into, the United States.¹⁵ Existing regulations establish related definitions for the terms “firearm” and “frame or receiver,” and set forth more detailed requirements for how the serial number must be affixed to the firearm. However, these definitions and rules have not kept pace with advances in gun manufacturing technology, rendering many firearms not subject to these serialization requirements, including guns produced by non-licensed individuals for personal use. The new rule promulgated by the ATF updates the definitions of “firearm” and “frame or receiver” to account for these developments in firearm technology.¹⁶ Specifically, the rule defines “firearm” to include a “weapon parts kit that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive.” The rule also modifies the definition of “frame or receiver” by defining various frame or receiver sub-parts, and includes “a partially complete,

¹⁴ <https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>

¹⁵ 18 U.S.C. §921(i).

¹⁶ For the full text of the rule, see <https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>

disassembled, or nonfunctional frame or receiver, including a frame or receiver parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver.”

This bill purports to conform California law to the new federal regulation, and establish a framework whereby Californians may only acquire and possess firearms and precursor parts that are regulated as firearms or frames and receivers under federal law. However, several questions remain, such as the rule’s impact on California’s participation in the National Instant Criminal Background Check System (NICS) and whether any incongruity between the rule’s definitions and those in this bill inadvertently create new crimes related to the possession of precursor parts.¹⁷ Additionally, implementation of the federal rule may be delayed by legal challenge or eliminated entirely by a future administration, a scenario in which the practical effect of this bill, which seeks to work in tandem with that rule, is unclear.

6. Argument in Support

According to the City of San Diego:

To help address increasing gun violence and the rapid proliferation of “ghost guns” in the City, Mayor Todd Gloria signed an ordinance last September banning ghost guns in the City of San Diego. The ordinance, known as Eliminate Non-serialized Untraceable Firearm (E.N.U.F.) Ordinance, prohibits the possession, purchase, sale, receipt and transportation of non-serialized, unfinished frames and receivers, and non-serialized firearms, all of which are commonly known as ghost guns.

In 2020, San Diego saw a 169% increase in the number of ghost guns retrieved and impounded compared to the previous year. By the time the E.N.U.F was enacted last fall, San Diego had already surpassed the number of ghost guns impounded in all of 2019 and 2020 by the San Diego Police Department (SDPD). The vast majority of ghost guns recovered by SDPD are seized from people who cannot pass state or federal background checks because of a criminal conviction involving a felony, violent misdemeanor, and from persons who are prohibited due to mental illness.

AB 1621 is consistent with the San Diego’s efforts to address the proliferation of unregulated and dangerous “ghost guns.” While the City’s ordinance is effective at addressing the issue within the city limits, individuals can far too easily purchase ghost guns in neighboring jurisdictions. Therefore AB 1621, a statewide measure, is necessary.

7. Argument in Opposition

According to the California Rifle and Pistol Association:

CRPA is in strong opposition to Assembly Bill 1621 (AB 1621). AB 1621 is yet another step in the process of banning the legal and lawful act of citizens to build firearms, a tradition Americans have enjoyed since our nation was founded! If signed into law, AB 1621 would redefine a firearm precursor part as “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as

¹⁷ These issues were also raised in the Assembly Public Safety analysis of this bill.

the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted. This bill would extend the definition of a firearm to include a firearm precursor part for the purposes of most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm, including provisions which do not apply to a frame or receiver under existing law. The bill would repeal provisions relating to the sale of firearm precursor parts through a licensed precursor part vendor, and would prohibit the sale, transfer, or possession of an unserialized firearm precursor part, except as specified. This bill would repeal those provisions and instead prohibit a person from manufacturing or assembling an unserialized firearm. The bill would require any person in possession of an unserialized firearm to apply to the department for a unique mark of identification and to affix that mark to the firearm before July 1, 2023. The bill would explicitly prohibit the possession or transfer of a firearm without a serial number or mark of identification.”

If AB 1621 is passed it will result in unnecessary and costly lawsuits and task DOJ with even more unnecessary time-consuming mandates. It is an unconstitutional restriction on lawful conduct. The author does not consider the practicality nor the enormity of the task which would be required of the DOJ. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks and waiting periods, plus similar procedures now for ammunition purchases and purchasers. Already when AB 879 is implemented in 2025, the DOJ will be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts. Now add to the list of responsibilities patrolling ‘gun shows’ all over California for ‘parts’ that are not even clearly defined! All this while the list of over 24,000 known armed prohibited felons continues to grow in California. We are confused about the authors’ intent for this legislation. In July 2016, Governor Brown signed into law Assembly Bill 857 (AB 857) the “ghost gun” serialization requirements. AB 857 already makes it illegal to turn any “precursor part” into a firearm without proper registration and serialization from DOJ (and completion of a background check). Which begs the question: what is the true intent and necessity of banning individuals access to firearm parts and ability to build their own firearms? As AB 1621 calls for this prohibition and further compounds the workload of DOJ, we are still waiting for the definition of what “parts” are worthy of being ‘firearm precursor parts’

-- END --

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 1621 **Hearing Date:** June 8, 2022
Author: Gipson
Version: March 24, 2022
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: unserialized firearms*

HISTORY

Source: Brady Campaign; Giffords Law Center to Prevent Gun Violence; Everytown for Gun Safety; Moms Demand Action for Gun Sense, California Chapter

Prior Legislation: AB 1057 (Petrie-Norris), Ch. 682, Stats. of 2021
AB 879 (Gipson), Ch. 730, Stats. of 2019
SB 746 (Portantino), Ch. 780, Stats. of 2018
AB 857 (Cooper), Ch. 60, Stats. of 2016
AB 1673 (Gipson, 2016), vetoed by the Governor
SB 808 (de Leon, 2013), vetoed by the Governor
AB 2011 (Hertzberg), Ch. 911, Stats. of 1998

Support: Brady California; City of San Diego; County of San Diego; Students Demand Action

Opposition: California Rifle and Pistol Association

Assembly Floor Vote: 63 - 0

PURPOSE

The purpose of this bill is to revise various definitions relating to firearm precursor parts and unserialized firearms and establish various restrictions on the possession, sale, transfer, manufacture and assembly of unserialized firearms and firearm precursor parts, subject to exceptions.

Existing federal law defines firearm as any weapon which will or is designed to or may be readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device (not including an antique firearm. (18 U.S.C. §921(a)(3).)

Existing federal law requires federally licensed importers and manufacturers of firearms to identify each firearm imported or manufactured by a serial number engraved or cast on the receiver or frame of the weapon. (18 U.S.C. §921(i).)

Existing federal law makes it unlawful for any person to knowingly transport, ship, receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated or altered, or to possess or receive any firearm which has had

the serial number removed, obliterated or altered and has at any time been shipped or transported in interstate or foreign commerce. (18 U.S.C §922(k).)

Existing federal law makes it unlawful to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not as detectable by walk-through metal detection as a security exemplar containing 3.7 oz. of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. (18 U.S.C. § 922(p).)

Existing state law defines a “firearm” as “a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Penal Code §16520(a).)

Existing law defines a “firearm” for specified other provisions as including the frame or receiver. (Penal Code §16520(b).)

Existing law defines a “firearm,” for specified provisions of the Penal Code, to include the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver. (Penal Code §16520(g).)

Existing law defines a “firearm precursor part” as a component of a firearm necessary to assemble a firearm and is described as either an unfinished receiver, as specified, or unfinished handgun frame. (Penal Code, § 16531(a).)

Existing law specifies that a firearm precursor part is not a firearm or the frame or receiver thereof, and that a firearm precursor part that is attached or affixed to a firearm is not subject to specified provisions. (Penal Code, § 16531(d).)

Existing law defines “firearm precursor part vendor” as a person or business enterprise that holds a valid firearm precursor part vendor license, as specified. (Penal Code, § 16532(a).)

Existing law, effective July 1, 2022, authorizes the Attorney General, a district attorney, or a city attorney to bring an action to enjoin the importation into the state or sale of any firearm precursor part that is imported into the state or sold within the state in violation of specified provisions. (Penal Code §18010(d)(1).)

Existing law provides that, commencing July 1, 2022, firearm precursor parts that are imported into the state or sold within the state are a nuisance and are subject to confiscation and destruction. (Penal Code §18010(d)(2).)

Existing law prohibits any person from changing, altering, removing or obliterating the name of the maker, model, manufacturer’s number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make that change. (Penal Code §23900.)

Existing law authorizes the DOJ, upon request, to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification, or a distinguishing number or mark assigned by the department has been destroyed or obliterated. (Penal Code, § 23910.)

Existing law makes it a misdemeanor, subject to exceptions, for any person to buy, receive, dispose of, sell, offer for sale, or possess any firearm that has had any identifying number or mark, as specified, changed, altered, obliterated or removed, if that person had knowledge of the change. (Penal Code §§23920, 23925.)

Existing law provides that no person shall sell or otherwise transfer ownership in a handgun unless the firearm bears specified identifying marks imprinted by the manufacturer or assigned by the DOJ. (Penal Code §27530.)

Existing law defines “manufacturing” or “assembling” a firearm as fabricating or constructing a firearm or, or fitting together the component parts of a firearm to construct a firearm, and imposes various corresponding requirements related the assignment and attachment of an identifying serial number. (Penal Code §29180.)

Existing law prescribes a process by which the DOJ shall accept and grant applications in the form of serial numbers to persons who wish to manufacture or assemble firearms. (Penal Code §29182.)

Existing law, effective July 1, 2022, establishes a process whereby firearm precursor parts may only be sold by a person or entity with a firearm precursor part vendor license issued by the DOJ, and imposes various restrictions and requirements related thereto. (Penal Code §§30400 et. seq.)

Existing law requires firearms to be centrally registered at the time of transfer or sale by way of transfer forms centrally compiled by the DOJ. The DOJ is required to keep a registry from data sent to the DOJ indicating who owns what firearm by make, model, and serial number and the date thereof. (Pen. Code, §11106(a), (c).)

This bill sets forth several legislative findings and declarations, including, in part:

- The proliferation of unserialized ghost guns built from firearm precursor parts has caused enormous harm and suffering, hampered the ability of law enforcement to trace crime guns and investigate firearm trafficking and other crimes, and dangerously undermined the effectiveness of laws and protections critical to the health, safety, and well-being of Californians.
- Law enforcement officials from cities across California have reported massive increases in the number of unserialized self-assembled ghost guns recovered from homicide cases and other crimes in recent years.
- Whatever legitimate interest and enjoyment unlicensed firearm manufacturers have in assembling firearms from firearm precursor parts, as opposed to completed frames or receivers, has been substantially outweighed by the devastating violent harms Californians have suffered as a result of the alarming proliferation of unserialized ghost guns across the state.
- The Legislature seeks to protect public health and safety by halting the sale of firearm precursor parts in California until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.

This bill defines a “federal licensee authorized to serialize firearms” as a person, firm, corporation, or other entity that holds any valid federal firearms license that authorizes the person, firm, corporation, or other entity to imprint serial numbers onto firearms pursuant to specified federal law.

This bill defines a “federally licensed manufacturer or importer” as a person or entity that holds a valid license to manufacture or import firearms pursuant to federal law.

This bill, for specified provisions of the Penal Code, revises the definition of “firearm” to include a firearm precursor part, and makes conforming technical changes.

This bill revises the definition of “firearm precursor part” to mean any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

This bill defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with such serial number.”

This bill provides that the DOJ is authorized but not required to assign a distinguishing number or mark of identification to any firearm whenever the manufacturer’s number or other assigned distinguishing number has been destroyed or obliterated.

This bill provides that any person who knowingly possesses or imports any firearm that does not have a valid serial number or mark of identification, as defined, is guilty of a misdemeanor.

This bill provides that the following conduct does not constitute a misdemeanor per the provision above:

- Possession of a firearm that is not a handgun and was assembled before December 16, 1968.
- Possession of a firearm that was registered with the DOJ prior to July 1, 2018 and has a serial number or identifying mark.
- Possession of a firearm that is a curio, relic, or antique firearm, as specified.
- Possession of a firearm by a federally licensed firearms manufacturer or importer, or any other federal licensee authorized to serialize firearms.
- The possession of a firearm by a person who, before July 1, applied to the DOJ in good faith for a serial number or identifying mark, as specified, and is otherwise in compliance of the law
- The possession of a firearm by a new resident who applies in good faith for a serial number or identifying mark within 60 days of arrival. Such an application after the expiration of the 60-day period shall not constitute probable cause for a misdemeanor violation for unlawful possession or importation of an unserialized firearm.

This bill prohibits the sale or transfer of a firearm that is not imprinted with a valid serial number or mark of identification, except for specified older guns, antiques, curios and relics.

This bill requires a person who assembles a firearm to notify DOJ and provide the department with specified information sufficient to identify the owner of the firearm, the serial number of the frame or receiver, and a description of the firearm.

This bill provides that any person who owns an unserialized firearm or firearm precursor part shall be deemed to be in compliance with the bill's requirements if they apply to the DOJ for a unique serial number, affix that number to the firearm, and notify the DOJ by July 1, 2023.

This bill provides that no person, other than a federally licensed manufacturer or importer, shall sell or transfer ownership of a firearm in this state that is manufactured or assembled by that person except by operation of law.

This bill prohibits a person, corporation, or firm from knowingly manufacturing or assembling, or knowingly causing, allowing, facilitating, aiding or abetting the manufacture or assembling of a firearm that is not imprinted with a valid serial number or mark of identification.

This bill authorizes the DOJ to accept and discretionarily grant applications, based on specified criteria, from persons wishing to serialize or mark their firearm, as defined, or firearm precursor part.

This bill provides that only a federally licensed firearms manufacturer or importer can possess or obtain a computer numerical control (CNC) milling machine that, as its primary function, manufactures firearms, with exceptions for entities selling CNCs to federally licensed manufacturers, common carriers, and any member of the armed forces, law enforcement or forensic laboratory acting in the scope of their employment.

This bill provides that, subject to limited exceptions, it is unlawful for a person to sell, offer to sell or transfer ownership of an unserialized firearm precursor part to a person or entity that is not a federally licensed firearms manufacturer or importer or a federal licensee authorized to sell firearms.

This bill provides that, subject to limited exceptions, it is unlawful for a person or entity other than a federally licensed manufacturer, importer, or firearms seller to purchase or receive an unserialized firearm precursor part.

This bill repeals specified laws regulating firearm precursor part vendors and makes appropriate technical changes.

This bill authorizes the DOJ to adopt emergency regulations to implement its provisions.

This bill contains a severability clause.

COMMENTS

1. Need for This Bill

According to the Author:

Even before the COVID-19 pandemic, stories from families of gun violence have kept me up at night. My own son and his fiancé were victims... and this issue has

only gotten worse. In the community of Watts which I represent, there were 22 homicides from January through November of 2020, nearly double the number from the year before. For communities alike, gun violence is a wildfire that we work diligently trying to contain. And the casualties are our babies, sisters, brothers, friends, and acquaintances - all deserving of life but were cut short of their potential. To say that this issue is personal to me is an understatement, and sending thoughts and prayers just isn't enough. AB 1621 seeks to eradicate ghost guns from our streets, and this effort is nothing short of a life-saving, common-sense approach toward providing justice for families who have continued to bear the burden of losing a loved one through incidents that could have otherwise been prevented. My heart breaks every single time I hear of another life lost from senseless gun violence. Not one more rally. Not one more vigil. Not one more shooting. We need the comprehensive solutions - this is wholeheartedly about saving lives, and nothing less.

2. The Proliferation of “Ghost Guns” in California

In the United States, traditional firearms are produced by licensed manufacturers and sold through licensed gun dealers. Federal law requires all guns manufactured in the United States and imported from abroad to have serial numbers, typically displayed on the back of the frame. By contrast, “ghost guns” are manufactured in parts which can be acquired without a background check and can easily be assembled by an unlicensed buyer. Ghost guns are designed to avoid regulation by being sold in DIY kits containing their component parts, which, individually, are unregulated, but when assembled form a fully functional firearm. Ghost guns are also unserialized, meaning they cannot be traced by law enforcement. According to recent reporting by the New York Times:

The criminal underground has long relied on stolen weapons with filed-off serial numbers, but ghost guns represent a digital-age upgrade, and they are especially prevalent in coastal blue states with strict firearm laws. Nowhere is that truer than in California, where their proliferation has reached epidemic proportions [...] Over the past 18 months, the officials said, ghost guns accounted for 25 to 50 percent of firearms recovered at crime scenes. The vast majority of suspects caught with them were legally prohibited from having guns.¹

California's major cities are at the epicenter of this crisis. During the first half of 2021, the Los Angeles Police Department confiscated 863 ghost guns, representing a 300% increase over the previous year. Since 2017, the department has seen a 400% increase in ghost gun seizures.² In Oakland, 23% of the firearms seized by police officers last year were ghost guns, and police in San Francisco seized 194 ghost guns as of December 7, 2021, representing 20% of all guns seized by the city's police department that year. By way of comparison, not one firearm seized by the SFPD in 2015 was a ghost gun.³ And just a few months ago, in Sacramento, a man used an unregistered homemade automatic

¹ Thrush, Glenn. “Ghost Guns’: Firearm Kits Bought Online Fuel Epidemic of Violence.” Originally published 14 November 2021; updated 26 January 2022. <https://www.nytimes.com/2021/11/14/us/ghost-guns-homemade-firearms.html>

² “LAPD declares ‘ghost guns’ an epidemic, citing 400% increase in seizures.” *Los Angeles Times*. 15 October 2021. <https://www.latimes.com/california/story/2021-10-15/lapd-says-ghost-guns-an-epidemic-with-seizures-up-400-since-2017>

³ “Oakland joins growing list of California cities to ban ghost guns.” *San Jose Mercury News*. 18 January 2022. <https://www.mercurynews.com/2022/01/18/oakland-joins-growing-list-of-california-cities-to-ban-ghost-guns/>

rifle to kill his three daughters, a chaperone, and himself in a local church. At the time of the shooting, the killer was under a restraining order prohibiting him from possessing a firearm.⁴

3. This Bill Repeals and Significantly Revises Provisions of Law Related to Unserialized Firearms and Precursor Parts

Until recently, California law only imposed restrictions on parties that manufactured or assembled firearm components, or “firearm precursor parts,” and parties that knowingly possessed unserialized firearms – it did not regulate the sale of such parts.⁵ In 2019, however, the Legislature adopted AB 879 (Gipson, Ch. 730, Stats. of 2019), which established a new regulatory framework for firearm precursor parts, and required, among other things, all such parts to be sold in-person through a licensed vendor.⁶ Under AB 879, the sale of precursor parts is regulated in much the same manner as the sale of ammunition.⁷ Existing law enacted by AB 879 also prohibits the sale of firearm precursor parts to a person under 21 years of age and specified prohibited persons, and forbids possession of a precursor part by specified prohibited persons. Under that measure, the DOJ was required to begin accepting applications for precursor part vendor licenses on April 1, 2022, and regulations for the implementation of AB 879’s licensing provisions were adopted by DOJ on the same day.⁸ Most of AB 879’s provisions do not become effective until July 1, 2022. Citing the rapid spread of ghost guns and the damage they have inflicted since the passage of AB 879, the Author argues that that framework is no longer sufficient, and seeks to replace it with this legislation.

According to one of the sponsors of this bill, the Brady Campaign, the AB 879 framework does not adequately target ghost guns. They write:

Even when the new law takes effect, it will not require vendors to sell precursor parts with serial numbers already affixed and instead will rely on purchasers to apply for and affix serial numbers themselves—a process that is currently rife with non-compliance. The new law also fails to treat sales of precursor parts the same as sales of firearms. The background check will not check entries in the national database that is used for firearms purchases, there are no waiting periods or age restrictions, and there are no limits on the number of precursor parts that can be purchased, as there are for firearms.

This bill repeals the provisions of AB 879 from existing law almost entirely, and replaces them with a more far-reaching framework, which, according to the Author, “seeks to halt the sale of firearm precursor parts until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.” The bill’s major provisions are discussed below.

⁴ “Man used “ghost gun” to kill 3 daughters in Northern California church.” *Associated Press*. 7 March, 2022. <https://www.pe.com/2022/03/07/man-used-ghost-gun-to-kill-3-daughters-in-northern-california-church/>

⁵ These restrictions were enacted by AB 857 (Cooper) Ch. 60, Stats. of 2016.

⁶ Penal Code §§30400 et. seq., 30412.

⁷ Ammunition is regulated by PC §§30210-30395, and many of the provisions are similar in structure and effect to those related to firearm precursor parts.

⁸ For the text of the adopted regulations, see <https://oag.ca.gov/system/files/media/bof-fppvl-text-of-prop-regs-040122.pdf>

4. Effect of This Bill

a. Definitions

This bill creates and revises several definitions related to firearms and firearm precursor parts. Existing law defines “firearm precursor part” as a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished receiver, as specified, or an unfinished handgun frame.⁹ This bill would establish a significantly different definition of “firearm precursor part,” primarily in order align California’s definition of the term with a new federal definition of “unfinished frame or receiver” that will go into effect via regulation in August 2022 (discussed further in Comment 5, below). Additionally, whereas existing law defines “firearm,” for numerous specified Penal Code provisions, as including the frame or receiver (i.e. a ‘completed’ frame or receiver), it does not include firearm precursor parts (i.e. an ‘unfinished’ frame or receiver) in that definition. This bill includes “firearm precursor part” in the definition of “firearm” for these specified provisions, effectively aligning the law’s treatment of completed frames and receivers with its treatment of unfinished frames and receivers.

In keeping with the bill’s near wholesale repeal of AB 879, it repeals the existing definition of “firearm precursor part vendor” and does not create a new definition. Coupled with the more inclusive definition of “firearm” discussed above, this has the practical effect of designating licensed firearm and ammunition vendors as precursor part vendors. This bill also defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with a serial number.” Additionally, the bill creates definitions for “federal licensee authorized to serialize firearms” and “federally licensed manufacturer or importer. As explained below, these three definitions work in conjunction with other provisions of this bill to ban the sale, transfer, purchase and receipt of precursor parts that are not federally required to have a serial number.

b. Prohibitions Related to Unserialized Firearms and Precursor Parts

This bill creates a new statutory scheme that generally prohibits the sale, possession, import and transfer of unserialized firearms and firearm precursor parts. This is achieved via the imposition of several individual yet interrelated prohibitions. For the purpose of these prohibitions, the term “firearm” includes a firearm precursor part. First, this bill makes it a misdemeanor to knowingly possess or import into the state any firearm that does not have a “valid serial number or mark of identification,” defined as a federally assigned serial number, a serial number assigned by DOJ, or a serial number or mark of identification issued by another state. Exempt from this prohibition are various types of individuals and entities: members of the military, police, employees of forensic labs, federally licensed manufacturers, people lawfully disposing of firearms, people with older weapons¹⁰, people who have applied to the DOJ for a serial number by July 1, 2023, and new residents who have applied to the DOJ for a serial number within 60 days of arrival.¹¹

⁹ Penal Code §16531

¹⁰ Such as curios, relics, antique weapons and firearms produced before December 16, 1968.

¹¹ This provision of the bill includes intent language expressing the intent of the Legislature to encourage rather than deter people possessing unserialized firearms to make a good faith effort to bring those firearms into compliance.

Second, the bill prohibits sale or transfer of an unserialized firearm, except for non-handgun firearms assembled prior to December 1968 and curios, relics or antiques.

Third, the bill prohibits any person, corporation or firm from knowingly manufacturing or assembling, or knowingly causing or assisting in the manufacture, of an unserialized firearm, without exception.

Fourth, this bill prohibits any person, other than a federally licensed manufacturer or importer, from selling or transferring a firearm that is assembled by that person, except by operation of law. This provision effectively expands an existing prohibition on the sale or transfer of privately built firearms assembled from unserialized parts to any privately built firearm. Because the bill's provisions generally require that firearms and precursor parts be serialized prior to sale, both private and licensed manufacturers would no longer be required to apply to DOJ for a serial number after completing the assembly of a firearm, as is required under existing law. Rather, for the manufacture or assembly of any firearm, including by licensed manufacturers, this bill requires the submission of specified information to the DOJ about the firearm assembled.

Fifth, and finally, this bill prohibits the sale, offer for sale or transfer of an unserialized firearm precursor part to any party except for a federal licensee, and prohibits the purchase or receipt of an unserialized firearm precursor part by any party except for a federal licensee. Recall that the bill defines "unserialized firearm precursor part" as a precursor part that is not imprinted with a serial number and not federally required to be imprinted with a serial number.

Despite these numerous prohibitions, this bill would still permit any owner of an unserialized firearm or precursor part to bring their firearm or precursor part into compliance by applying to the DOJ for a serial number by July 1, 2023, permanently affixing it to their firearm or part within 10 days of receipt, and subsequently notifying the DOJ. Thus, cumulatively, the prohibitions contained in this bill would permit individuals to acquire, continue to possess, or assemble firearms as long as they are serialized pursuant to state and federal law.

c. Prohibitions Related to Computer Numerical Control Milling Machines

Computer numerical control (CNC) milling machines are machines capable of automatically processing raw materials such as metal, plastic, wood or composite into digitally modeled shapes based solely on programmed instructions, without the need for a human operator. 3D printers are an example of a CNC milling machine that has grown more common in recent years. The world's first 3D-printed gun was produced in 2013, and since then, CNC milling machines have grown significantly in popularity as a method for the home manufacture of firearms. For instance, a company known as "Ghost Gunner" is currently marketing its latest CNC milling machine, the Ghost Gunner 3, which costs only \$2,500 and comes with programmed code to complete several fully functional assault-style weapons.¹² A review of an earlier model noted that the machine, worked so well that it may signal a new era in the gun control debate, one where the barrier to legally building an untraceable, durable, and deadly semiautomatic rifle has reached an unprecedented low point in cost and skill."¹³

¹² <https://ghostgunner.net/product/ghost-gunner-3-deposit/>

¹³ "I made an untraceable AR-15 Ghost Gun in my office – and it was easy." *WIRED Magazine*. 3 June, 2015. <https://www.wired.com/2015/06/i-made-an-untraceable-ar-15-ghost-gun/>

Existing California law contains no restrictions regarding the sale or possession of CNC milling machines. This bill makes it unlawful to sell, offer to sell, or transfer a CNC milling machine that has the sole or primary function of manufacturing firearms to any person other than a federally licensed firearms manufacturer or importer. Additionally, the bill prohibits the possession, purchase, or receipt of a CNC milling machine intended to produce firearms by anyone other than a federally licensed manufacturer or importer. However, the bill does include some exceptions to these prohibitions, namely for entities that sell CNC milling machines to federal licensees, common carriers, and members of the armed forces or law enforcement.

d. Modifications to DOJ's Serialization Responsibilities

Existing law provides that the DOJ may assign a serial number or other distinguishing mark to any firearm when that firearm lacks a manufacturer's number or other mark of identification. Further, when the manufacturer's number or other identifying mark, including a serial number assigned by the DOJ, has been destroyed, existing law requires the DOJ to assign a new serial number or identifying mark. This bill instead authorizes the DOJ to assign a new identifying mark or serial number when the existing number or mark has been destroyed. Additionally, this bill authorizes, rather than requires, the DOJ to accept and grant applications for firearm serial numbers to persons who wish to own a firearm or precursor part that does not otherwise have a valid serial number or identifying mark. Ostensibly, this new permissive approach gives DOJ greater discretion to deny applications for a serial number and avoid assigning serial numbers to unlawfully owned firearms.

5. Recent Federal Regulations

On April 7, 2021, President Biden announced various executive actions to address gun violence, including a directive to the Department of Justice to issue a regulatory rule regarding ghost guns. The rule, promulgated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) was submitted on April 11, 2022 with the stated goal of ensuring “the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by federal firearms licensees.”¹⁴ The rule is set to go into effect on August 24, 2022.

Existing federal law requires federally licensed firearm dealers and manufacturers (“FFLs”) to “identify by means of a serial number engraved or cast on the receiver or frame of the weapon” each firearm manufactured in, or imported into, the United States.¹⁵ Existing regulations establish related definitions for the terms “firearm” and “frame or receiver,” and set forth more detailed requirements for how the serial number must be affixed to the firearm. However, these definitions and rules have not kept pace with advances in gun manufacturing technology, rendering many firearms not subject to these serialization requirements, including guns produced by non-licensed individuals for personal use. The new rule promulgated by the ATF updates the definitions of “firearm” and “frame or receiver” to account for these developments in firearm technology.¹⁶ Specifically, the rule defines “firearm” to include a “weapon parts kit that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive.” The rule also modifies the definition of “frame or receiver” by defining various frame or receiver sub-parts, and includes “a partially complete,

¹⁴ <https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>

¹⁵ 18 U.S.C. §921(i).

¹⁶ For the full text of the rule, see <https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>

disassembled, or nonfunctional frame or receiver, including a frame or receiver parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver.”

This bill purports to conform California law to the new federal regulation, and establish a framework whereby Californians may only acquire and possess firearms and precursor parts that are regulated as firearms or frames and receivers under federal law. However, several questions remain, such as the rule’s impact on California’s participation in the National Instant Criminal Background Check System (NICS) and whether any incongruity between the rule’s definitions and those in this bill inadvertently create new crimes related to the possession of precursor parts.¹⁷ Additionally, implementation of the federal rule may be delayed by legal challenge or eliminated entirely by a future administration, a scenario in which the practical effect of this bill, which seeks to work in tandem with that rule, is unclear.

6. Argument in Support

According to the City of San Diego:

To help address increasing gun violence and the rapid proliferation of “ghost guns” in the City, Mayor Todd Gloria signed an ordinance last September banning ghost guns in the City of San Diego. The ordinance, known as Eliminate Non-serialized Untraceable Firearm (E.N.U.F.) Ordinance, prohibits the possession, purchase, sale, receipt and transportation of non-serialized, unfinished frames and receivers, and non-serialized firearms, all of which are commonly known as ghost guns.

In 2020, San Diego saw a 169% increase in the number of ghost guns retrieved and impounded compared to the previous year. By the time the E.N.U.F was enacted last fall, San Diego had already surpassed the number of ghost guns impounded in all of 2019 and 2020 by the San Diego Police Department (SDPD). The vast majority of ghost guns recovered by SDPD are seized from people who cannot pass state or federal background checks because of a criminal conviction involving a felony, violent misdemeanor, and from persons who are prohibited due to mental illness.

AB 1621 is consistent with the San Diego’s efforts to address the proliferation of unregulated and dangerous “ghost guns.” While the City’s ordinance is effective at addressing the issue within the city limits, individuals can far too easily purchase ghost guns in neighboring jurisdictions. Therefore AB 1621, a statewide measure, is necessary.

7. Argument in Opposition

According to the California Rifle and Pistol Association:

CRPA is in strong opposition to Assembly Bill 1621 (AB 1621). AB 1621 is yet another step in the process of banning the legal and lawful act of citizens to build firearms, a tradition Americans have enjoyed since our nation was founded! If signed into law, AB 1621 would redefine a firearm precursor part as “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as

¹⁷ These issues were also raised in the Assembly Public Safety analysis of this bill.

the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted. This bill would extend the definition of a firearm to include a firearm precursor part for the purposes of most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm, including provisions which do not apply to a frame or receiver under existing law. The bill would repeal provisions relating to the sale of firearm precursor parts through a licensed precursor part vendor, and would prohibit the sale, transfer, or possession of an unserialized firearm precursor part, except as specified. This bill would repeal those provisions and instead prohibit a person from manufacturing or assembling an unserialized firearm. The bill would require any person in possession of an unserialized firearm to apply to the department for a unique mark of identification and to affix that mark to the firearm before July 1, 2023. The bill would explicitly prohibit the possession or transfer of a firearm without a serial number or mark of identification.”

If AB 1621 is passed it will result in unnecessary and costly lawsuits and task DOJ with even more unnecessary time-consuming mandates. It is an unconstitutional restriction on lawful conduct. The author does not consider the practicality nor the enormity of the task which would be required of the DOJ. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks and waiting periods, plus similar procedures now for ammunition purchases and purchasers. Already when AB 879 is implemented in 2025, the DOJ will be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts. Now add to the list of responsibilities patrolling ‘gun shows’ all over California for ‘parts’ that are not even clearly defined! All this while the list of over 24,000 known armed prohibited felons continues to grow in California. We are confused about the authors’ intent for this legislation. In July 2016, Governor Brown signed into law Assembly Bill 857 (AB 857) the “ghost gun” serialization requirements. AB 857 already makes it illegal to turn any “precursor part” into a firearm without proper registration and serialization from DOJ (and completion of a background check). Which begs the question: what is the true intent and necessity of banning individuals access to firearm parts and ability to build their own firearms? As AB 1621 calls for this prohibition and further compounds the workload of DOJ, we are still waiting for the definition of what “parts” are worthy of being ‘firearm precursor parts’

-- END --

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 1621 **Hearing Date:** June 8, 2022
Author: Gipson
Version: March 24, 2022
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: unserialized firearms*

HISTORY

Source: Brady Campaign; Giffords Law Center to Prevent Gun Violence; Everytown for Gun Safety; Moms Demand Action for Gun Sense, California Chapter

Prior Legislation: AB 1057 (Petrie-Norris), Ch. 682, Stats. of 2021
AB 879 (Gipson), Ch. 730, Stats. of 2019
SB 746 (Portantino), Ch. 780, Stats. of 2018
AB 857 (Cooper), Ch. 60, Stats. of 2016
AB 1673 (Gipson, 2016), vetoed by the Governor
SB 808 (de Leon, 2013), vetoed by the Governor
AB 2011 (Hertzberg), Ch. 911, Stats. of 1998

Support: Brady California; City of San Diego; County of San Diego; Students Demand Action

Opposition: California Rifle and Pistol Association

Assembly Floor Vote: 63 - 0

PURPOSE

The purpose of this bill is to revise various definitions relating to firearm precursor parts and unserialized firearms and establish various restrictions on the possession, sale, transfer, manufacture and assembly of unserialized firearms and firearm precursor parts, subject to exceptions.

Existing federal law defines firearm as any weapon which will or is designed to or may be readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device (not including an antique firearm. (18 U.S.C. §921(a)(3).)

Existing federal law requires federally licensed importers and manufacturers of firearms to identify each firearm imported or manufactured by a serial number engraved or cast on the receiver or frame of the weapon. (18 U.S.C. §921(i).)

Existing federal law makes it unlawful for any person to knowingly transport, ship, receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated or altered, or to possess or receive any firearm which has had

the serial number removed, obliterated or altered and has at any time been shipped or transported in interstate or foreign commerce. (18 U.S.C §922(k).)

Existing federal law makes it unlawful to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not as detectable by walk-through metal detection as a security exemplar containing 3.7 oz. of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. (18 U.S.C. § 922(p).)

Existing state law defines a “firearm” as “a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Penal Code §16520(a).)

Existing law defines a “firearm” for specified other provisions as including the frame or receiver. (Penal Code §16520(b).)

Existing law defines a “firearm,” for specified provisions of the Penal Code, to include the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver. (Penal Code §16520(g).)

Existing law defines a “firearm precursor part” as a component of a firearm necessary to assemble a firearm and is described as either an unfinished receiver, as specified, or unfinished handgun frame. (Penal Code, § 16531(a).)

Existing law specifies that a firearm precursor part is not a firearm or the frame or receiver thereof, and that a firearm precursor part that is attached or affixed to a firearm is not subject to specified provisions. (Penal Code, § 16531(d).)

Existing law defines “firearm precursor part vendor” as a person or business enterprise that holds a valid firearm precursor part vendor license, as specified. (Penal Code, § 16532(a).)

Existing law, effective July 1, 2022, authorizes the Attorney General, a district attorney, or a city attorney to bring an action to enjoin the importation into the state or sale of any firearm precursor part that is imported into the state or sold within the state in violation of specified provisions. (Penal Code §18010(d)(1).)

Existing law provides that, commencing July 1, 2022, firearm precursor parts that are imported into the state or sold within the state are a nuisance and are subject to confiscation and destruction. (Penal Code §18010(d)(2).)

Existing law prohibits any person from changing, altering, removing or obliterating the name of the maker, model, manufacturer’s number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make that change. (Penal Code §23900.)

Existing law authorizes the DOJ, upon request, to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification, or a distinguishing number or mark assigned by the department has been destroyed or obliterated. (Penal Code, § 23910.)

Existing law makes it a misdemeanor, subject to exceptions, for any person to buy, receive, dispose of, sell, offer for sale, or possess any firearm that has had any identifying number or mark, as specified, changed, altered, obliterated or removed, if that person had knowledge of the change. (Penal Code §§23920, 23925.)

Existing law provides that no person shall sell or otherwise transfer ownership in a handgun unless the firearm bears specified identifying marks imprinted by the manufacturer or assigned by the DOJ. (Penal Code §27530.)

Existing law defines “manufacturing” or “assembling” a firearm as fabricating or constructing a firearm or, or fitting together the component parts of a firearm to construct a firearm, and imposes various corresponding requirements related the assignment and attachment of an identifying serial number. (Penal Code §29180.)

Existing law prescribes a process by which the DOJ shall accept and grant applications in the form of serial numbers to persons who wish to manufacture or assemble firearms. (Penal Code §29182.)

Existing law, effective July 1, 2022, establishes a process whereby firearm precursor parts may only be sold by a person or entity with a firearm precursor part vendor license issued by the DOJ, and imposes various restrictions and requirements related thereto. (Penal Code §§30400 et. seq.)

Existing law requires firearms to be centrally registered at the time of transfer or sale by way of transfer forms centrally compiled by the DOJ. The DOJ is required to keep a registry from data sent to the DOJ indicating who owns what firearm by make, model, and serial number and the date thereof. (Pen. Code, §11106(a), (c).)

This bill sets forth several legislative findings and declarations, including, in part:

- The proliferation of unserialized ghost guns built from firearm precursor parts has caused enormous harm and suffering, hampered the ability of law enforcement to trace crime guns and investigate firearm trafficking and other crimes, and dangerously undermined the effectiveness of laws and protections critical to the health, safety, and well-being of Californians.
- Law enforcement officials from cities across California have reported massive increases in the number of unserialized self-assembled ghost guns recovered from homicide cases and other crimes in recent years.
- Whatever legitimate interest and enjoyment unlicensed firearm manufacturers have in assembling firearms from firearm precursor parts, as opposed to completed frames or receivers, has been substantially outweighed by the devastating violent harms Californians have suffered as a result of the alarming proliferation of unserialized ghost guns across the state.
- The Legislature seeks to protect public health and safety by halting the sale of firearm precursor parts in California until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.

This bill defines a “federal licensee authorized to serialize firearms” as a person, firm, corporation, or other entity that holds any valid federal firearms license that authorizes the person, firm, corporation, or other entity to imprint serial numbers onto firearms pursuant to specified federal law.

This bill defines a “federally licensed manufacturer or importer” as a person or entity that holds a valid license to manufacture or import firearms pursuant to federal law.

This bill, for specified provisions of the Penal Code, revises the definition of “firearm” to include a firearm precursor part, and makes conforming technical changes.

This bill revises the definition of “firearm precursor part” to mean any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

This bill defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with such serial number.”

This bill provides that the DOJ is authorized but not required to assign a distinguishing number or mark of identification to any firearm whenever the manufacturer’s number or other assigned distinguishing number has been destroyed or obliterated.

This bill provides that any person who knowingly possesses or imports any firearm that does not have a valid serial number or mark of identification, as defined, is guilty of a misdemeanor.

This bill provides that the following conduct does not constitute a misdemeanor per the provision above:

- Possession of a firearm that is not a handgun and was assembled before December 16, 1968.
- Possession of a firearm that was registered with the DOJ prior to July 1, 2018 and has a serial number or identifying mark.
- Possession of a firearm that is a curio, relic, or antique firearm, as specified.
- Possession of a firearm by a federally licensed firearms manufacturer or importer, or any other federal licensee authorized to serialize firearms.
- The possession of a firearm by a person who, before July 1, applied to the DOJ in good faith for a serial number or identifying mark, as specified, and is otherwise in compliance of the law
- The possession of a firearm by a new resident who applies in good faith for a serial number or identifying mark within 60 days of arrival. Such an application after the expiration of the 60-day period shall not constitute probable cause for a misdemeanor violation for unlawful possession or importation of an unserialized firearm.

This bill prohibits the sale or transfer of a firearm that is not imprinted with a valid serial number or mark of identification, except for specified older guns, antiques, curios and relics.

This bill requires a person who assembles a firearm to notify DOJ and provide the department with specified information sufficient to identify the owner of the firearm, the serial number of the frame or receiver, and a description of the firearm.

This bill provides that any person who owns an unserialized firearm or firearm precursor part shall be deemed to be in compliance with the bill's requirements if they apply to the DOJ for a unique serial number, affix that number to the firearm, and notify the DOJ by July 1, 2023.

This bill provides that no person, other than a federally licensed manufacturer or importer, shall sell or transfer ownership of a firearm in this state that is manufactured or assembled by that person except by operation of law.

This bill prohibits a person, corporation, or firm from knowingly manufacturing or assembling, or knowingly causing, allowing, facilitating, aiding or abetting the manufacture or assembling of a firearm that is not imprinted with a valid serial number or mark of identification.

This bill authorizes the DOJ to accept and discretionarily grant applications, based on specified criteria, from persons wishing to serialize or mark their firearm, as defined, or firearm precursor part.

This bill provides that only a federally licensed firearms manufacturer or importer can possess or obtain a computer numerical control (CNC) milling machine that, as its primary function, manufactures firearms, with exceptions for entities selling CNCs to federally licensed manufacturers, common carriers, and any member of the armed forces, law enforcement or forensic laboratory acting in the scope of their employment.

This bill provides that, subject to limited exceptions, it is unlawful for a person to sell, offer to sell or transfer ownership of an unserialized firearm precursor part to a person or entity that is not a federally licensed firearms manufacturer or importer or a federal licensee authorized to sell firearms.

This bill provides that, subject to limited exceptions, it is unlawful for a person or entity other than a federally licensed manufacturer, importer, or firearms seller to purchase or receive an unserialized firearm precursor part.

This bill repeals specified laws regulating firearm precursor part vendors and makes appropriate technical changes.

This bill authorizes the DOJ to adopt emergency regulations to implement its provisions.

This bill contains a severability clause.

COMMENTS

1. Need for This Bill

According to the Author:

Even before the COVID-19 pandemic, stories from families of gun violence have kept me up at night. My own son and his fiancé were victims... and this issue has

only gotten worse. In the community of Watts which I represent, there were 22 homicides from January through November of 2020, nearly double the number from the year before. For communities alike, gun violence is a wildfire that we work diligently trying to contain. And the casualties are our babies, sisters, brothers, friends, and acquaintances - all deserving of life but were cut short of their potential. To say that this issue is personal to me is an understatement, and sending thoughts and prayers just isn't enough. AB 1621 seeks to eradicate ghost guns from our streets, and this effort is nothing short of a life-saving, common-sense approach toward providing justice for families who have continued to bear the burden of losing a loved one through incidents that could have otherwise been prevented. My heart breaks every single time I hear of another life lost from senseless gun violence. Not one more rally. Not one more vigil. Not one more shooting. We need the comprehensive solutions - this is wholeheartedly about saving lives, and nothing less.

2. The Proliferation of “Ghost Guns” in California

In the United States, traditional firearms are produced by licensed manufacturers and sold through licensed gun dealers. Federal law requires all guns manufactured in the United States and imported from abroad to have serial numbers, typically displayed on the back of the frame. By contrast, “ghost guns” are manufactured in parts which can be acquired without a background check and can easily be assembled by an unlicensed buyer. Ghost guns are designed to avoid regulation by being sold in DIY kits containing their component parts, which, individually, are unregulated, but when assembled form a fully functional firearm. Ghost guns are also unserialized, meaning they cannot be traced by law enforcement. According to recent reporting by the New York Times:

The criminal underground has long relied on stolen weapons with filed-off serial numbers, but ghost guns represent a digital-age upgrade, and they are especially prevalent in coastal blue states with strict firearm laws. Nowhere is that truer than in California, where their proliferation has reached epidemic proportions [...] Over the past 18 months, the officials said, ghost guns accounted for 25 to 50 percent of firearms recovered at crime scenes. The vast majority of suspects caught with them were legally prohibited from having guns.¹

California's major cities are at the epicenter of this crisis. During the first half of 2021, the Los Angeles Police Department confiscated 863 ghost guns, representing a 300% increase over the previous year. Since 2017, the department has seen a 400% increase in ghost gun seizures.² In Oakland, 23% of the firearms seized by police officers last year were ghost guns, and police in San Francisco seized 194 ghost guns as of December 7, 2021, representing 20% of all guns seized by the city's police department that year. By way of comparison, not one firearm seized by the SFPD in 2015 was a ghost gun.³ And just a few months ago, in Sacramento, a man used an unregistered homemade automatic

¹ Thrush, Glenn. “Ghost Guns’: Firearm Kits Bought Online Fuel Epidemic of Violence.” Originally published 14 November 2021; updated 26 January 2022. <https://www.nytimes.com/2021/11/14/us/ghost-guns-homemade-firearms.html>

² “LAPD declares ‘ghost guns’ an epidemic, citing 400% increase in seizures.” *Los Angeles Times*. 15 October 2021. <https://www.latimes.com/california/story/2021-10-15/lapd-says-ghost-guns-an-epidemic-with-seizures-up-400-since-2017>

³ “Oakland joins growing list of California cities to ban ghost guns.” *San Jose Mercury News*. 18 January 2022. <https://www.mercurynews.com/2022/01/18/oakland-joins-growing-list-of-california-cities-to-ban-ghost-guns/>

rifle to kill his three daughters, a chaperone, and himself in a local church. At the time of the shooting, the killer was under a restraining order prohibiting him from possessing a firearm.⁴

3. This Bill Repeals and Significantly Revises Provisions of Law Related to Unserialized Firearms and Precursor Parts

Until recently, California law only imposed restrictions on parties that manufactured or assembled firearm components, or “firearm precursor parts,” and parties that knowingly possessed unserialized firearms – it did not regulate the sale of such parts.⁵ In 2019, however, the Legislature adopted AB 879 (Gipson, Ch. 730, Stats. of 2019), which established a new regulatory framework for firearm precursor parts, and required, among other things, all such parts to be sold in-person through a licensed vendor.⁶ Under AB 879, the sale of precursor parts is regulated in much the same manner as the sale of ammunition.⁷ Existing law enacted by AB 879 also prohibits the sale of firearm precursor parts to a person under 21 years of age and specified prohibited persons, and forbids possession of a precursor part by specified prohibited persons. Under that measure, the DOJ was required to begin accepting applications for precursor part vendor licenses on April 1, 2022, and regulations for the implementation of AB 879’s licensing provisions were adopted by DOJ on the same day.⁸ Most of AB 879’s provisions do not become effective until July 1, 2022. Citing the rapid spread of ghost guns and the damage they have inflicted since the passage of AB 879, the Author argues that that framework is no longer sufficient, and seeks to replace it with this legislation.

According to one of the sponsors of this bill, the Brady Campaign, the AB 879 framework does not adequately target ghost guns. They write:

Even when the new law takes effect, it will not require vendors to sell precursor parts with serial numbers already affixed and instead will rely on purchasers to apply for and affix serial numbers themselves—a process that is currently rife with non-compliance. The new law also fails to treat sales of precursor parts the same as sales of firearms. The background check will not check entries in the national database that is used for firearms purchases, there are no waiting periods or age restrictions, and there are no limits on the number of precursor parts that can be purchased, as there are for firearms.

This bill repeals the provisions of AB 879 from existing law almost entirely, and replaces them with a more far-reaching framework, which, according to the Author, “seeks to halt the sale of firearm precursor parts until and unless such unfinished parts are regulated as firearms or frames under federal law and required, accordingly, to be serialized by federally licensed firearm manufacturers, importers, or other authorized federal firearms licensees.” The bill’s major provisions are discussed below.

⁴ “Man used “ghost gun” to kill 3 daughters in Northern California church.” *Associated Press*. 7 March, 2022. <https://www.pe.com/2022/03/07/man-used-ghost-gun-to-kill-3-daughters-in-northern-california-church/>

⁵ These restrictions were enacted by AB 857 (Cooper) Ch. 60, Stats. of 2016.

⁶ Penal Code §§30400 et. seq., 30412.

⁷ Ammunition is regulated by PC §§30210-30395, and many of the provisions are similar in structure and effect to those related to firearm precursor parts.

⁸ For the text of the adopted regulations, see <https://oag.ca.gov/system/files/media/bof-fppvl-text-of-prop-regs-040122.pdf>

4. Effect of This Bill

a. Definitions

This bill creates and revises several definitions related to firearms and firearm precursor parts. Existing law defines “firearm precursor part” as a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished receiver, as specified, or an unfinished handgun frame.⁹ This bill would establish a significantly different definition of “firearm precursor part,” primarily in order align California’s definition of the term with a new federal definition of “unfinished frame or receiver” that will go into effect via regulation in August 2022 (discussed further in Comment 5, below). Additionally, whereas existing law defines “firearm,” for numerous specified Penal Code provisions, as including the frame or receiver (i.e. a ‘completed’ frame or receiver), it does not include firearm precursor parts (i.e. an ‘unfinished’ frame or receiver) in that definition. This bill includes “firearm precursor part” in the definition of “firearm” for these specified provisions, effectively aligning the law’s treatment of completed frames and receivers with its treatment of unfinished frames and receivers.

In keeping with the bill’s near wholesale repeal of AB 879, it repeals the existing definition of “firearm precursor part vendor” and does not create a new definition. Coupled with the more inclusive definition of “firearm” discussed above, this has the practical effect of designating licensed firearm and ammunition vendors as precursor part vendors. This bill also defines “unserialized firearm precursor part” as “a firearm precursor part that is not required by federal law to be imprinted with a serial number and is not imprinted with a serial number.” Additionally, the bill creates definitions for “federal licensee authorized to serialize firearms” and “federally licensed manufacturer or importer. As explained below, these three definitions work in conjunction with other provisions of this bill to ban the sale, transfer, purchase and receipt of precursor parts that are not federally required to have a serial number.

b. Prohibitions Related to Unserialized Firearms and Precursor Parts

This bill creates a new statutory scheme that generally prohibits the sale, possession, import and transfer of unserialized firearms and firearm precursor parts. This is achieved via the imposition of several individual yet interrelated prohibitions. For the purpose of these prohibitions, the term “firearm” includes a firearm precursor part. First, this bill makes it a misdemeanor to knowingly possess or import into the state any firearm that does not have a “valid serial number or mark of identification,” defined as a federally assigned serial number, a serial number assigned by DOJ, or a serial number or mark of identification issued by another state. Exempt from this prohibition are various types of individuals and entities: members of the military, police, employees of forensic labs, federally licensed manufacturers, people lawfully disposing of firearms, people with older weapons¹⁰, people who have applied to the DOJ for a serial number by July 1, 2023, and new residents who have applied to the DOJ for a serial number within 60 days of arrival.¹¹

⁹ Penal Code §16531

¹⁰ Such as curios, relics, antique weapons and firearms produced before December 16, 1968.

¹¹ This provision of the bill includes intent language expressing the intent of the Legislature to encourage rather than deter people possessing unserialized firearms to make a good faith effort to bring those firearms into compliance.

Second, the bill prohibits sale or transfer of an unserialized firearm, except for non-handgun firearms assembled prior to December 1968 and curios, relics or antiques.

Third, the bill prohibits any person, corporation or firm from knowingly manufacturing or assembling, or knowingly causing or assisting in the manufacture, of an unserialized firearm, without exception.

Fourth, this bill prohibits any person, other than a federally licensed manufacturer or importer, from selling or transferring a firearm that is assembled by that person, except by operation of law. This provision effectively expands an existing prohibition on the sale or transfer of privately built firearms assembled from unserialized parts to any privately built firearm. Because the bill's provisions generally require that firearms and precursor parts be serialized prior to sale, both private and licensed manufacturers would no longer be required to apply to DOJ for a serial number after completing the assembly of a firearm, as is required under existing law. Rather, for the manufacture or assembly of any firearm, including by licensed manufacturers, this bill requires the submission of specified information to the DOJ about the firearm assembled.

Fifth, and finally, this bill prohibits the sale, offer for sale or transfer of an unserialized firearm precursor part to any party except for a federal licensee, and prohibits the purchase or receipt of an unserialized firearm precursor part by any party except for a federal licensee. Recall that the bill defines "unserialized firearm precursor part" as a precursor part that is not imprinted with a serial number and not federally required to be imprinted with a serial number.

Despite these numerous prohibitions, this bill would still permit any owner of an unserialized firearm or precursor part to bring their firearm or precursor part into compliance by applying to the DOJ for a serial number by July 1, 2023, permanently affixing it to their firearm or part within 10 days of receipt, and subsequently notifying the DOJ. Thus, cumulatively, the prohibitions contained in this bill would permit individuals to acquire, continue to possess, or assemble firearms as long as they are serialized pursuant to state and federal law.

c. Prohibitions Related to Computer Numerical Control Milling Machines

Computer numerical control (CNC) milling machines are machines capable of automatically processing raw materials such as metal, plastic, wood or composite into digitally modeled shapes based solely on programmed instructions, without the need for a human operator. 3D printers are an example of a CNC milling machine that has grown more common in recent years. The world's first 3D-printed gun was produced in 2013, and since then, CNC milling machines have grown significantly in popularity as a method for the home manufacture of firearms. For instance, a company known as "Ghost Gunner" is currently marketing its latest CNC milling machine, the Ghost Gunner 3, which costs only \$2,500 and comes with programmed code to complete several fully functional assault-style weapons.¹² A review of an earlier model noted that the machine, worked so well that it may signal a new era in the gun control debate, one where the barrier to legally building an untraceable, durable, and deadly semiautomatic rifle has reached an unprecedented low point in cost and skill."¹³

¹² <https://ghostgunner.net/product/ghost-gunner-3-deposit/>

¹³ "I made an untraceable AR-15 Ghost Gun in my office – and it was easy." *WIRED Magazine*. 3 June, 2015. <https://www.wired.com/2015/06/i-made-an-untraceable-ar-15-ghost-gun/>

Existing California law contains no restrictions regarding the sale or possession of CNC milling machines. This bill makes it unlawful to sell, offer to sell, or transfer a CNC milling machine that has the sole or primary function of manufacturing firearms to any person other than a federally licensed firearms manufacturer or importer. Additionally, the bill prohibits the possession, purchase, or receipt of a CNC milling machine intended to produce firearms by anyone other than a federally licensed manufacturer or importer. However, the bill does include some exceptions to these prohibitions, namely for entities that sell CNC milling machines to federal licensees, common carriers, and members of the armed forces or law enforcement.

d. Modifications to DOJ's Serialization Responsibilities

Existing law provides that the DOJ may assign a serial number or other distinguishing mark to any firearm when that firearm lacks a manufacturer's number or other mark of identification. Further, when the manufacturer's number or other identifying mark, including a serial number assigned by the DOJ, has been destroyed, existing law requires the DOJ to assign a new serial number or identifying mark. This bill instead authorizes the DOJ to assign a new identifying mark or serial number when the existing number or mark has been destroyed. Additionally, this bill authorizes, rather than requires, the DOJ to accept and grant applications for firearm serial numbers to persons who wish to own a firearm or precursor part that does not otherwise have a valid serial number or identifying mark. Ostensibly, this new permissive approach gives DOJ greater discretion to deny applications for a serial number and avoid assigning serial numbers to unlawfully owned firearms.

5. Recent Federal Regulations

On April 7, 2021, President Biden announced various executive actions to address gun violence, including a directive to the Department of Justice to issue a regulatory rule regarding ghost guns. The rule, promulgated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) was submitted on April 11, 2022 with the stated goal of ensuring “the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by federal firearms licensees.”¹⁴ The rule is set to go into effect on August 24, 2022.

Existing federal law requires federally licensed firearm dealers and manufacturers (“FFLs”) to “identify by means of a serial number engraved or cast on the receiver or frame of the weapon” each firearm manufactured in, or imported into, the United States.¹⁵ Existing regulations establish related definitions for the terms “firearm” and “frame or receiver,” and set forth more detailed requirements for how the serial number must be affixed to the firearm. However, these definitions and rules have not kept pace with advances in gun manufacturing technology, rendering many firearms not subject to these serialization requirements, including guns produced by non-licensed individuals for personal use. The new rule promulgated by the ATF updates the definitions of “firearm” and “frame or receiver” to account for these developments in firearm technology.¹⁶ Specifically, the rule defines “firearm” to include a “weapon parts kit that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive.” The rule also modifies the definition of “frame or receiver” by defining various frame or receiver sub-parts, and includes “a partially complete,

¹⁴ <https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>

¹⁵ 18 U.S.C. §921(i).

¹⁶ For the full text of the rule, see <https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>

disassembled, or nonfunctional frame or receiver, including a frame or receiver parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver.”

This bill purports to conform California law to the new federal regulation, and establish a framework whereby Californians may only acquire and possess firearms and precursor parts that are regulated as firearms or frames and receivers under federal law. However, several questions remain, such as the rule’s impact on California’s participation in the National Instant Criminal Background Check System (NICS) and whether any incongruity between the rule’s definitions and those in this bill inadvertently create new crimes related to the possession of precursor parts.¹⁷ Additionally, implementation of the federal rule may be delayed by legal challenge or eliminated entirely by a future administration, a scenario in which the practical effect of this bill, which seeks to work in tandem with that rule, is unclear.

6. Argument in Support

According to the City of San Diego:

To help address increasing gun violence and the rapid proliferation of “ghost guns” in the City, Mayor Todd Gloria signed an ordinance last September banning ghost guns in the City of San Diego. The ordinance, known as Eliminate Non-serialized Untraceable Firearm (E.N.U.F.) Ordinance, prohibits the possession, purchase, sale, receipt and transportation of non-serialized, unfinished frames and receivers, and non-serialized firearms, all of which are commonly known as ghost guns.

In 2020, San Diego saw a 169% increase in the number of ghost guns retrieved and impounded compared to the previous year. By the time the E.N.U.F was enacted last fall, San Diego had already surpassed the number of ghost guns impounded in all of 2019 and 2020 by the San Diego Police Department (SDPD). The vast majority of ghost guns recovered by SDPD are seized from people who cannot pass state or federal background checks because of a criminal conviction involving a felony, violent misdemeanor, and from persons who are prohibited due to mental illness.

AB 1621 is consistent with the San Diego’s efforts to address the proliferation of unregulated and dangerous “ghost guns.” While the City’s ordinance is effective at addressing the issue within the city limits, individuals can far too easily purchase ghost guns in neighboring jurisdictions. Therefore AB 1621, a statewide measure, is necessary.

7. Argument in Opposition

According to the California Rifle and Pistol Association:

CRPA is in strong opposition to Assembly Bill 1621 (AB 1621). AB 1621 is yet another step in the process of banning the legal and lawful act of citizens to build firearms, a tradition Americans have enjoyed since our nation was founded! If signed into law, AB 1621 would redefine a firearm precursor part as “any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as

¹⁷ These issues were also raised in the Assembly Public Safety analysis of this bill.

the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted. This bill would extend the definition of a firearm to include a firearm precursor part for the purposes of most criminal and regulatory provisions related to the possession, sale, and transfer of a firearm, including provisions which do not apply to a frame or receiver under existing law. The bill would repeal provisions relating to the sale of firearm precursor parts through a licensed precursor part vendor, and would prohibit the sale, transfer, or possession of an unserialized firearm precursor part, except as specified. This bill would repeal those provisions and instead prohibit a person from manufacturing or assembling an unserialized firearm. The bill would require any person in possession of an unserialized firearm to apply to the department for a unique mark of identification and to affix that mark to the firearm before July 1, 2023. The bill would explicitly prohibit the possession or transfer of a firearm without a serial number or mark of identification.”

If AB 1621 is passed it will result in unnecessary and costly lawsuits and task DOJ with even more unnecessary time-consuming mandates. It is an unconstitutional restriction on lawful conduct. The author does not consider the practicality nor the enormity of the task which would be required of the DOJ. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks and waiting periods, plus similar procedures now for ammunition purchases and purchasers. Already when AB 879 is implemented in 2025, the DOJ will be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts. Now add to the list of responsibilities patrolling ‘gun shows’ all over California for ‘parts’ that are not even clearly defined! All this while the list of over 24,000 known armed prohibited felons continues to grow in California. We are confused about the authors’ intent for this legislation. In July 2016, Governor Brown signed into law Assembly Bill 857 (AB 857) the “ghost gun” serialization requirements. AB 857 already makes it illegal to turn any “precursor part” into a firearm without proper registration and serialization from DOJ (and completion of a background check). Which begs the question: what is the true intent and necessity of banning individuals access to firearm parts and ability to build their own firearms? As AB 1621 calls for this prohibition and further compounds the workload of DOJ, we are still waiting for the definition of what “parts” are worthy of being ‘firearm precursor parts’

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