
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 2156 **Hearing Date:** June 8, 2022
Author: Wicks
Version: March 23, 2022
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Firearms: manufacturers*

HISTORY

Source: Rifle and Pistol Association, INC.

Prior Legislation: SB 376 (Portantino) Chapter 738, Stats. 2019

Support: Brady Campaign; Brady Campaign California; Everytown for Gun Safety Action Fund; Giffords; Moms Demand Action for Gun Sense in America; Students Demand Action for Gun Sense in America

Opposition: California Rifle & Pistol Association; California Sportsman's Lobby, INC.; Outdoor Sportsmen's Coalition of California; Safari Club International - California Chapters

Assembly Floor Vote: 54 - 16

PURPOSE

The purpose of this bill is to expand the prohibitions on the manufacture of firearms without a state license including reducing the number of guns a person may manufacture without a license and prohibiting the use of a three-dimensional printer to manufacture any firearm without a license.

Existing federal law provides that no person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until that person has filed an application with and received a license to do so from the Attorney General of the United States. (18 U.S.C. §923 (a).)

Existing law requires a person, firm or corporation manufacturing 50 or more firearms each year in the state to be licensed as a manufacturer. (Penal Code § 29010.)

Existing law provides that the Department of Justice (DOJ) shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state. (Penal Code § 29050 (a).)

Existing law prohibits the DOJ from granting a license unless and until the applicant presents proof of all of the following:

- a) A valid license to manufacture firearms issued by the Federal Government;
- b) Any regulatory or business license required by local government;
- c) A valid seller's permit or resale certificate issued by the State Board of Equalization, if applicable; and,
- d) A certificate of eligibility issued by the DOJ. (Penal Code, § 29050 (b).)

Existing law requires the DOJ to maintain a centralized list of all persons licensed to manufacture firearms. (Penal Code § 29060.)

Existing law provides that a firearms manufacturer's license can be revoked and that a licensee may become permanently ineligible to hold a license, as specified. (Penal Code § 29065.)

Existing law defines a "zip gun" as a weapon or device that meets the following criteria:

- a) It was not imported as a firearm by an importer with a federal license;
- b) It was not originally designed to be a firearm by a manufacturer with a federal license;
- c) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device as provided by federal law; and,
- d) It is made or altered to expel a projectile by the force of an explosion or other form of combustion. (Penal Code § 17360.)

Existing law makes it a crime to manufacture, or cause to be manufactured, import into the state, keep for sale, or offer or expose for sale, or give, lend, or possess a zip gun, and punishes the offense as an alternate felony-misdemeanor, a "wobbler." (Penal Code § 33600.)

This bill reduces the number of firearms that a person, firm, or corporation may manufacture in a calendar year without having a state license to manufacture firearms from 50 to three. A violation is a misdemeanor.

This bill prohibits a person, firm, or corporation from using a three-dimensional printer to manufacture any firearm, including a frame or receiver, or any firearm precursor part, without having a state license to manufacture firearms. A violation is a misdemeanor.

This bill defines "three-dimensional printer" as "a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object."

COMMENTS

1. Need for This Bill

According to the author:

Existing law allow people or corporations to manufacture large numbers of firearms without obtaining a California manufacturer's license and therefore, without complying with these standard public safety precautions. Current law only requires a California manufacturer's license from people or corporations who also already have a federal firearm manufacturer's license, or from individuals who wrongfully fail to obtain a federal manufacturer's license should not be exempt

from California's licensing law. Additionally, the law requires a California manufacturer's license from people or corporations that manufacture more than 50 firearms per year in the state. However, people and companies who repeatedly manufacture deadly weapons should be licensed and regulated accordingly.

Lastly, existing law also does not expressly prohibit unlicensed manufacturers from using 3-D printers to manufacture their own firearms or key firearm components. While very few ghost guns are currently produced from 3-D printers, developments in 3-D printing technology could soon make this an emerging source of weapons for people seeking to circumvent California's laws governing the sale of firearms and ghost gun build kits.

2. State Licensing for Manufacturing Firearms

In 1998, legislation was enacted to require state licensing of federal firearms manufacturers if they manufactured more than 100 firearms within this state. SB 376 (Portantino) Chapter 738, Stats. 2019, effective January 1, 2020, changed the number of firearms a person can manufacture without a State license to 50. This bill would further reduce that number to three.

Supporters argue that allowing a person to manufacture up to 49 guns without a license is contributing to the proliferation of untraceable guns without serial numbers.

3. 3D Printed Firearms

In its proposed rule to provide new regulatory definitions to various terms including, firearm, frame or receiver, gunsmith, and privately made firearm, the U.S. Department of Justice, Alcohol, Tobacco, Firearms, and Explosives Bureau (ATF), notes:

Technological advances have also made it easier for unlicensed persons to make firearms at home from standalone parts or weapon parts kits, or by using 3D printers or personally owned or leased equipment, without any records or a background check. Commonly referred to as "ghost guns," these privately made firearms ("PMFs"), when made for personal use, are not required by the GCA to have a serial number placed on the frame or receiver, making it difficult for law enforcement to determine where, by whom, or when they were manufactured, and to whom they were sold or otherwise disposed.

In recent years, the number of PMFs recovered from crime scenes throughout the country has increased. From January 1, 2016, through December 31, 2020, there were approximately 23,906 suspected PMFs reported to ATF as having been recovered by law enforcement from potential crime scenes, including 325 homicides or attempted homicides. (ATF, Definition of "Frame or Receiver" and Identification of Firearms, [Proposed Rule, 86 Fed. Reg. 27720 \(May 21, 2021\)](https://www.federalregister.gov/d/2021-10058). Available at: <https://www.federalregister.gov/d/2021-10058>.)

Current state law requires a person manufacturing or assembling a firearm to apply to the DOJ for a unique serial number or other mark of identification for that firearm. (Pen. Code § 29180 (b)(1).) This bill would require a state firearms manufacturing license in order for any person to make a firearm or firearm precursor parts with a 3-D printer.

4. Argument in Support

Brady Campaign California supports this bill stating:

California has some of the nation's strongest laws governing the sale of firearms, but two major loopholes in the legal regime permit individuals and corporations without a manufacturer's license to produce unlimited numbers of firearms. First, current California law only requires people or businesses to obtain a California firearm manufacturer's license if they have already obtained a federal firearm manufacturer's license issued by ATF; meaning, individuals and businesses who fail to obtain a federal manufacturer's license are effectively exempt from California's licensing requirement. Second, California only requires individuals or businesses manufacturing 50 or more firearms per calendar year to obtain a California manufacturer's license. People and companies manufacturing up to 49 deadly weapons every year are exempt from obtaining the license. As a result, the market in California for gun build kits, including "ghost guns"--or home made, DIY guns that are sold without serial numbers and therefore untraceable-- and related products, has exploded. Advertisements and marketing materials or ghost gun products routinely emphasize that these products are sold without traceable serial numbers and are essentially unregulated.

AB 2156 would decrease the threshold to obtain a California manufacturer's license from 50 or more manufactured firearms to 4 or more firearms per calendar year to ensure that unlicensed gun makers in California no longer circumvent state and federal gun laws by building their own firearms with parts sold through significantly less regulated, unlicensed channels.

The process for obtaining a firearm manufacturer's license from the California DOJ is comprehensive and requires applicants to perform a variety of tasks upholding public safety. Some requirements include: conducting manufacturing operations only on sites that meet specified security standards to prevent firearm thefts; ensuring that all firearms and firearms products and parts produced by the manufacturer are stamped with a unique serial number to aid in investigation of gun crimes and trafficking; ensuring that all employees who handle firearms pass annual background checks; notifying local law enforcement that the manufacturer will be manufacturing firearms in a designated location and allowing routine inspections to ensure the licensee operates legally; and, retaining manufacturing records identifying all firearms, frames, and unfinished frames they manufacture.

Simply put, we believe that California law should generally require people and businesses who manufacture guns to obtain a manufacturing license and comply with California's manufacturing laws. These laws reflect the basic, important principle that manufacturing weapons designed to take human life is a serious enterprise that requires reasonable oversight, transparency, and responsible standard business practices. Individuals or corporations who wrongfully fail to obtain a federal manufacturer's license should not be exempt from California's firearm manufacturing laws, and AB 2156 (Wicks) would ensure they do.

5. Argument in Opposition

The California Sportsman's Lobby opposes this bill stating it is largely redundant of existing law and:

Firearm precursor parts, including any made using a 3D printer, can only be sold or transferred by or through a licensed firearms dealer or precursor parts vendor, and only after approval by the Department of Justice. Thus, an individual can lawfully make such a part just for their own personal use. If they are prohibited by law from possessing a firearm, they cannot legally make or possess a precursor part, either.

Under existing law, Penal Code Section 17360 already would, by definition, prohibit the manufacture of a firearm by an individual using a 3D printer as such individuals are not licensed importers or licensed manufacturers, and they are not making an item that was originally designed by a licensed manufacturer to be a firearm. Neither are they paying the required federal tax nor do they possess an exemption from paying the tax. The manufacture or possession of such firearms is prohibited by Penal Code Section 33600.

Furthermore, firearm frames and receivers are already treated as being firearms themselves. Thus, the bill is redundant in this regard. In its bill digest, the Legislative Counsel seems to recognize this fact by referencing only firearms and not separately mentioning frames and receivers.

By drastically reducing the number of firearms a hunter, hobbyist, recreational or competition shooter, or other lawful individual can make without having to get a state manufacturers license, the bill would greatly impede and infringe upon the ability of lawful individuals to engage in a lawful activity from which they derive much enjoyment and recreational activity.

Unlawful individuals, whom the bill appears to be focused on, would not comply with the provisions of AB 2156 just as they do not comply with other provisions of law.

The bill would only affect lawful individuals who are not a part of the crime problem. It would have no significant impact on preventing illegal activities.

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