



March 25<sup>th</sup>, 2024

## “HB 777 - Banning Ghost Gun Parts”

Once again, we are presented proposed legislation to attack the fictitious “ghost gun”. The term implies some supernatural ability or evil intent instilled in an inanimate object that in and of itself presents some mythical obstacle to law enforcement in fighting crime. Never mind that the legislators constantly pandering this drivel to the masses can not actually define the term with any sensible terms. We often hear the words “unserialized” and “untraceable” when attempts are made to define “ghost gun”, but the reality is that the majority of firearms owned in the United States are “untraceable”, and many were built without serial numbers and are still not required to bear one.

So, let’s set aside the anti-gun terminology used to scare citizens who aren’t educated on these matters and focus instead on what House Bill 777 purports to be as opposed to what it is trying to accomplish.

The bill is an effort to outlaw transfer of firearms kits used to privately manufacture firearms and defines those as a collection of “most if not all components finished or unfinished, necessary to complete a functional firearm within a short period of time.” The bill then goes on to include tools and instructions as parts of those kits. Uninformed people have the impression that these kits are a danger just by existing and have no idea what they entail. These kits are frames or receiver cuts where the fire-control cavity (trigger and other components required to initiate the firing process of ammunition) is solid and unmachined. They require some tools, and some basic knowledge of firearms manufacture so that a citizen can complete the firearm in a reasonable period for their own personal use. These are not ready to go firearms components you simply unwrap, punch a hole or two in and have a functioning weapon from. They require some diligence, and many first-time purchasers fail at their construction. These kits are not very different than guitar kits. The kit has parts to make the guitar, but one cannot simply assemble it and play a concert. Even complete products that require assembly are not easily assembled. How many of you have spent hours upon hours following detailed directions and you were still unable to assemble a child’s toy? The idea that these kits can be used to *quickly* produce a functioning firearm is flawed.

This is a fundamental attack on the citizens right and ability to privately manufacture firearms. A Constitutionally protected right guaranteed by the 2<sup>nd</sup> Amendment, or in our case Article I Section 21, since the writings of our state Constitution and the United States Constitution. Pennsylvania is one of the few states where our right to keep and bear arms to protect ourselves and the state is written in our state Constitution. Anyone reading this paper on HB 777 should also read our previously published position paper titled “Privately Manufactured Firearms a.k.a. Ghost Guns R2”<sup>1</sup> which goes into more detail about that topic. Some of the writings of that paper are included here as those rights are directly impinged by this bill.

The bill also outlaws the unregulated sale or transfer of a “firearm muffler or silencer frame or receiver”. The definition provided for that is “a part that provides housing or structure, including the outer tube or modular piece designed to hold or integrate one or more of the essential internal components of the device”. Anyone with experience privately manufacturing silencers in accordance with national firearms act regulations can tell you that a commonly used component of such silencers is what is called a “solvent trap”, a device meant to collect chemicals during gun cleaning operations. Precise modification of a solvent

### *Support the Bill of Rights and the 2<sup>nd</sup> Amendment*

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trap can make it a suitable housing for a silencer or suppressor. These “solvent traps” are easily constructed from common automotive fuel filters and oil filters available at any automotive parts store and are unregulated. Many law-abiding citizens follow the current federal regulations in this process, and manufacturing a silencer from one without NFA approval is already a crime. But according to HB 777 these components will become illegal to sell if not imprinted with a serial number registered with a Federal firearms licensee. That means millions of fuel filter and oil filter sales done to maintain our automotive industry will have to be handled through Federal firearms licensees to abide by this proposed legislation as there are no exceptions. Absurd to say the least, but that is what the bill proposes, whether the maker realizes this or not. And how could you write an exception without defeating the purpose of the bill in controlling their sales? A background check and a transfer fee to buy an oil filter is an interesting approach, to say the least.

Next on this bill’s hit list is “a split or modular firearm frame or receiver”. Many citizens not involved in the shooting sports may think this merely means components others may purchase to complete those previously mentioned parts kits, however the wording of this bill is very specific in that it defines that phrase as any part that “provides housing or a structure designed to hold or integrate one or more fire control or essential internal components. The term includes frames or receivers of different weapons that are combined to create a similar weapon with each retaining respective classifications as frames or receivers”. They have just proposed intense regulation of the most popular home defense sporting rifle in the United States, the AR-15, and millions of other firearms manufactured using a two-piece frame or receiver set. Firearms which are regulated currently by serialization of one receiver ONLY, usually the receiver that houses the firing mechanism of those firearms. Also interesting in this definition is it is an attempt to bring to legislation an effort the ATF was just recently thwarted at in federal court in which a federal judge ruled that the ATF overstepped its authority to define this exact same thing, as in Judge Reed O’Connor’s words “The liberty interests of law-abiding citizens wishing to engage in historically lawful conduct outweighs the Government’s competing interest in preventing prohibited persons from unlawfully possessing firearms,”. An argument currently proceeding to the Supreme Court of the United States.

As for “modular frame” components, one of the most popular semi-automatic pistols purchased today is the Sig Sauer P320 series of handguns. These pistols are completely modular, where the fire control mechanism is serialized and the owner can then purchase kits from the manufacturer allowing them to configure the pistol in various formats to meet their needs of home defense, personal defense, everyday carry, or sporting events, without the burden of finding ways to pay the costs of purchasing individual firearms for each need. Clearly something those less financially blessed among us can surely make use of to participate in sport and effectively defend their families with less of a financial burden. That option would go away under this proposed legislation.

A discussion of the benefits of serializing all these components is compelled by the notion that the maker of this bill believes it will somehow reduce crime. These types of proposals are often accompanied by the claim that gun-related deaths are on the rise in America, yet never account for the fact that the rate of gun deaths, which is a more accurate statistic that also accounts for the nation’s growing population, remained below the levels of earlier decades. Our own Pennsylvania has remained below the national average for gun-related deaths nationwide by state.<sup>ii</sup> So clearly there is no new crisis or epidemic of violence as the anti-gun crowd would have us all believe.

Now, it has been illegal for a person to sell a privately manufactured firearm without first serializing it since 1968. That is when serial numbers became required on all manufactured firearms. That also means tens if not hundreds of millions of firearms are still in circulation in the United States that were manufactured prior to 1968 without serial numbers, and it has never been the epidemic the makers of this bill would have you believe. It has had such little impact, that to this day Federal firearms licensees are NOT required to serialize these guns as they may come and go from their inventory. In fact, there have been no efforts by the ATF to make FFL’s do that. Despite all the ATF’s overreaching with regulation this has never been attempted which tells us all it clearly is not a contributing factor in crime. There have even been cases against defendants with firearms that are required by the Gun Control Act of 1968 to have serial numbers that have recently been dismissed as not holding up to the

standard put in place by the Supreme Court's ruling in 2022 in *New York State Rifle & Pistol Association v. Bruen*,<sup>iii</sup> in which the government must affirmatively prove that its firearms regulation is part of the historical tradition of gun regulation.

Additionally, we must point out that the federal gun laws regulate the sale and transfer of weapons for law-abiding citizens, *not* ownership or manufacture. The Bureau of Alcohol, Tobacco, Firearms and Explosives is tasked with regulating firearms dealers, not private manufacture, unless that manufacture is being done for the purpose of selling the product. There is not one law enforcement agency tasked with overseeing private manufacture of firearms as it has been repeatedly declared Constitutionally protected activity.

The argument that serial numbers help police solve crimes doesn't hold up under scrutiny either. It's a lie told to justify gun control at its worst. While we understand and respect the burden placed upon law enforcement to pursue illegal firearms sales and transfers, it is not the rights of the American citizen that should be infringed upon to help them do their job of investigating these crimes. It is fact that the U.S. government and the Pennsylvania State Police are already in violation of federal law pertaining to illegal weapon registries, and the notion that government could expand that infringement is insufferable by the citizens of this Commonwealth. Federal law 18 USC 926 states that:

"No such rule or regulation prescribed [by the Attorney General] after the date of the enactment of the Firearms Owners Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or disposition be established. Nothing in this section expands or restricts the Secretary's authority to inquire into the disposition of any firearm in the course of a criminal investigation."<sup>iv</sup>

The simple truth is that most guns are NOT registered. Those that we would consider registered are fully automatic weapons governed by the National Firearms Act, multiple sale reports provided to the ATF about multiple firearms purchases in short order, "suspect guns" (large quantity purchases, firearms found to be improperly recorded by dealers, and guns associated with crimes), traced guns (already recovered in criminal incidents), out of business records from closed dealers, and stolen guns. These records are a very small portion of the total number of guns privately owned in the United States. Therefore, most guns are untraceable, and should remain so, as our Founding Fathers intended.

Why should they remain so? What purpose would we have in saying such a thing? Serialization leads to universal background checks for sales of firearms, which leads to a national gun registry the government can use to confiscate or persecute any citizen of this nation. For serial numbers to be effective, background checks must be performed on every transfer to record the transfer of the serial number to the new owner. That creates a registry. All three are needed to be effective, and that leads to the enactment of practically any gun control law that anyone wants, up to and including confiscation by force. And for any citizen of this nation that truly believes our government has never overstepped its authority or been dangerous to the citizens, please take time to review the numerous court cases and legal decisions handed down by our judiciary branch putting the executive and legislative branches in check through the years. Numerous anti-gun organizations have had confiscation at various levels in their sights for decades, and anyone who believes that is not the overall goal of most gun control is ignorant of the truth that none of these laws impact the criminal or lead to any significant prevention of crime, or those same organizations would be clamoring for law enforcement and the court systems to further enforce the laws we already have, rather than wasting money trying to push new ones. Someone committing a murder does not care that he or she can be charged with having a firearm with the serial number ground off or without one or we would never see such a thing.

What does tracing a firearm provide to law enforcement anyway? I would argue next to nothing. How often are guns left at the scene of a violent crime by the criminal? Usually this only happens when the criminal is killed or severely injured, and you don't need the serial number to find the perpetrator. The Pennsylvania State Police were asked during a court proceeding in 2001 how many times they believe their gun registration system (records of sale) solved crimes. Their answer under oath was they believe it has assisted in solving FOUR crimes<sup>v</sup>. In one hundred years, it may have assisted FOUR times. New York and Maryland spent tens of millions of dollars on gun registry systems each over roughly a fifteen-year period. Those systems even included ballistic fingerprints of firearms. Both programs were cancelled citing not one single crime solved because of their existence. Police reports on the programs prior to their cancellation cited them to be both expensive and ineffective.<sup>vi</sup>

The answer to enforcing laws against straw sales and purchases is not serialization of privately manufactured firearms. Any law enforcement officer can tell you the bulk of firearms recovered after use in a crime are stolen, not privately manufactured. Though with the amount of attention the anti-gun groups have brought this tiny little niche of the firearms industry, they are making it a more popular choice for the criminal entrepreneur. Cutting down on these types of crimes requires funding, and task specific units whose purpose is going after firearms transfer offenses by criminal elements. Let law enforcement do their jobs, financially empower them to do so, but not at the price of the American citizen's rights.

There is also a faulty argument by some of the anti-gun or anti-Constitution side that private manufacture of firearms is not a 2<sup>nd</sup> Amendment or Article I, Section 21 issue. That argument is patently ridiculous. Every citizen of this Commonwealth, or of this nation, has the right to manufacture firearms without the government's approval or knowledge. It was a founding principal of our forefathers when they wrote the 2<sup>nd</sup> Amendment. Imagine if the 1<sup>st</sup> Amendment only pertained to speech that was produced by a professional's printing press and not by your own printer or modern ink pen? For that argument we will once again suggest reading our paper "Privately Manufactured Firearms a.k.a. Ghost Guns R2"<sup>vii</sup> rather than revisiting that entire topic here.

To be fair on the subject, we looked at the numbers provided by anti-gun advocates, "Everytown." We found a study of theirs that shows there have been 139 entries of shootings with privately manufactured firearms (inaccurately described as "ghost guns") or firearms with no serial numbers on their report "Ghost Guns Recoveries and Shootings"<sup>viii</sup>, which reportedly covers all such shootings from June of 2013 through August of 2023. Only 139 shootings in a period of ten years made their list but this is a crisis in a nation of 330 million citizens? Out of 139 shootings, twenty-one were accidental shootings (eleven of which the guns were illegally possessed). 118 of these incidents involved crimes committed that were far more serious than any possession laws (i.e., robbery, homicide, attempted homicide, recklessly endangering, endangering the welfare of children, etc.) and would carry far greater punishments. That means the criminals already didn't care about what was written in the law books, so one more offense isn't going to prevent them from doing evil deeds.

In summary, our opposition to the "HB 777 - Banning Ghost Gun Parts" is based upon:

- Clear violation of the 2<sup>nd</sup> Amendment / Article I, Section 21.
- Private manufacture of firearms is not only legal but protected from infringement or monitoring by any government agency.
- Efforts to regulate private manufacture will result in a gun registry held by government, which is a violation of federal law.
- The right to self-defense predates all laws of this nation.
- Inclusion of "firearm muffler or silencer frame or receiver" components that by the maker's definition would outlaw common automotive parts without ridiculous overreaching regulation.

- The inclusion of “a split or modular firearm frame or receiver” that would instantly impair the law-abiding citizen’s ability to purchase components, customize and enhance the most common sporting arms of the past sixty years restricting a citizen’s ability and right to protect themselves and their loved ones.
- Sales of privately manufactured firearms without serial numbers is already illegal.
- Multiple years of historical data showing that serialization of firearms does nothing to solve crime.
- Statistics provided by anti-gun advocates show the criminal element of these firearms is miniscule at best, and often a minor detail in a much greater criminal incident.
- The propensity for government to oppress citizens after the creation of gun registries throughout history.

For the reasons above and more, we vehemently oppose House Bill 777. We emphasize that any further regulation or restriction of the private manufacture of firearms is an overwhelming violation of the Constitution of the Commonwealth of Pennsylvania. This proposed law is an unnecessary infringement of the rights of the citizens of this land and weakens the ability of the law-abiding citizen to defend themselves against the modern violent criminal or overreaching government while doing nothing to hamper those same criminals or tyrannical government in their acts.

**“The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”**

If you should have any further questions or need clarification on the legality of the issues raised in this ILLEA White Paper, please feel free to e-mail us at [info@foac-illea.org](mailto:info@foac-illea.org).

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Respectfully,



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#### Endnotes

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- <sup>i</sup> <https://foac-illea.org/uploads/ILLEA-Talking-Points/Private%20Manufactured%20Firearms%20a.k.a.%20Ghost%20Guns%20R2.pdf>
- <sup>ii</sup> <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>
- <sup>iii</sup> <https://www.reuters.com/legal/ban-guns-with-serial-numbers-removed-is-unconstitutional-us-judge-2022-10-13/>
- <sup>iv</sup> [18 U.S. Code § 926 - Rules and regulations | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/ucc/18-usc/18-usc-926.html)
- <sup>v</sup> <https://crimeresearch.org/wp-content/uploads/2024/01/Testimony-on-Vermont-S-209.pdf>
- <sup>vi</sup> <https://www.washingtonpost.com/wp-dyn/articles/A16475-2005Jan17.html>
- <sup>vii</sup> <https://foac-illea.org/uploads/ILLEA-Talking-Points/Private%20Manufactured%20Firearms%20a.k.a.%20Ghost%20Guns%20R2.pdf>
- <sup>viii</sup> [Ghost Guns Recoveries and Shootings | Everytown Research & Policy](https://www.everytownresearch.org/ghost-guns-recoveries-and-shootings/)