

FINAL BILL REPORT

SHB 1739

C 243 L 19
Synopsis as Enacted

Brief Description: Addressing undetectable and untraceable firearms.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Valdez, Dolan, Kilduff, Pollet, Bergquist, Frame, Jinkins, Kloba and Macri; by request of Attorney General).

House Committee on Civil Rights & Judiciary
Senate Committee on Law & Justice

Background:

Certain persons are prohibited under state and federal law from possessing firearms, including persons convicted of felony offenses and certain misdemeanor offenses, persons who have been involuntarily committed for mental health treatment, persons subject to certain qualifying protection orders, and, with exceptions, persons under the age of 18. Sales or transfers of firearms in Washington are subject to background checks to determine the eligibility of the purchaser or transferee to possess firearms.

State law imposes a number of regulations with respect to certain types of weapons. With some exceptions, it is a class C felony for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, repair, or possess a machine gun, bump-fire stock, short-barreled shotgun, or short-barreled rifle, or any part designed for use in one of these weapons. These weapons and parts are considered contraband and subject to immediate seizure by law enforcement. In addition, it is a class A felony for a person, in the commission or furtherance of a felony, to use or make threats with a machine gun or firearm containing a bump-fire stock.

Undetectable and untraceable firearms have been the subject of recent interest and discussion. Undetectable firearms generally refer to firearms that are not detectable by common screening devices, such as walk-through metal detectors or airport screening devices. Untraceable firearms generally refer to firearms that do not have a serial number, resulting in an inability to trace the chain of distribution. Federal law contains prohibitions relating to some types of undetectable firearms. Under the Undetectable Firearms Act, it is unlawful to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not detectable by walk-through metal detectors after removal of grips, stocks, and

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magazines, or that has any major component which would not generate an accurate image of its shape when subjected to airport screening devices.

Undetectable and untraceable firearms have also been the subject of recent litigation in the context of three-dimensional (3D) printing technology, which allows a person to use computer aided design (CAD) files in conjunction with a 3D printer to make a firearm. In a case involving a company that produces and distributes CAD files for the production of firearms, the federal government initially took the position that Internet publication of these CAD files would violate federal arms export regulations. In 2018 the federal government entered into a settlement agreement that removes these CAD files from regulation and allows their public release and distribution via the Internet. Washington and 19 other states brought suit for injunctive relief and in August 2018 the federal district court issued a preliminary injunction prohibiting implementation or enforcement of the settlement agreement.

Summary:

Criminal penalties relating to undetectable firearms and untraceable firearms are established.

"Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

"Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federally licensed manufacturer or importer.

Allowing, Facilitating, Aiding, or Abetting Manufacture or Assembly.

It is unlawful for a person to knowingly or recklessly allow, facilitate, aid, or abet the manufacture or assembly of an undetectable firearm or untraceable firearm by a person who is ineligible to possess a firearm under state or federal law or who has signed an unrevoked voluntarily waiver of firearm rights. Failure to conduct a background check is prima facie evidence of recklessness.

A violation is a gross misdemeanor offense. A second or subsequent violation is a class C felony ranked at seriousness level III under the Sentencing Reform Act (SRA). A person is guilty of a separate offense for each and every undetectable firearm or untraceable firearm.

Manufacturing, Owning, Buying, Selling, Loaning, Furnishing, Transporting, or Possessing.

With some exceptions, it is unlawful for a person to: manufacture, own, buy, sell, loan, furnish, transport, or have in possession or control, any undetectable firearm or any part designed and intended solely and exclusively for use in an undetectable firearm; or assemble or repair an undetectable firearm. A violation is a class C felony ranked at seriousness level III under the SRA. Undetectable firearms that are illegally held or illegally possessed are contraband subject to immediate seizure by law enforcement.

It is unlawful for a person to manufacture an untraceable firearm with the intent to sell the untraceable firearm. A violation is a class C felony ranked at seriousness level III under the SRA.

Votes on Final Passage:

House	55	41	
Senate	30	18	(Senate amended)
House	56	40	(House concurred)

Effective: July 1, 2019