

SENATE BILL REPORT

ESHB 1705

As of February 18, 2022

Title: An act relating to limiting ghost guns, including untraceable firearms and untraceable unfinished frames and receivers that can be used to manufacture or assemble untraceable firearms, with exceptions for licensed federal firearm manufacturers, dealers, and importers, and firearms that have been rendered permanently inoperable, are antiques, or were manufactured before 1968.

Brief Description: Concerning ghost guns.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Berry, Valdez, Ryu, Fitzgibbon, Berg, Bateman, Duerr, Walen, Callan, Davis, Taylor, Macri, Peterson, Ramel, Ramos, Santos, Senn, Simmons, Slatter, Bergquist, Tharinger, Pollet, Frame, Harris-Talley, Hackney and Kloba).

Brief History: Passed House: 2/10/22, 57-39.

Committee Activity: Law & Justice: 2/21/22.

Brief Summary of Bill

- Restricts the manufacture, assembly, sale, transfer, purchase, possession, transport, and receipt of untraceable firearms.
- Restricts the sale, transfer, purchase, possession, transport, and receipt of unfinished frames and receivers.
- Establishes standards for marking untraceable firearms and unfinished frames and receivers with serial numbers.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: Washington law defines untraceable firearms as any firearm manufactured

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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. Washington prohibits the manufacture of an untraceable firearm with intent to sell. A violation of this prohibition is punishable as a class C felony.

Washington further prohibits knowingly or recklessly allowing, facilitating, aiding, or abetting the manufacture or assembly of an undetectable firearm or untraceable firearm by a person who is ineligible under state or federal law to possess a firearm, or has signed a valid voluntary waiver of firearm rights that has not been revoked. Failure to conduct a background check is prima facie evidence of recklessness. A violation of this restriction is punishable as a gross misdemeanor for a first offense, or as a class C felony for a repeat offense.

Summary of Bill: Definitions. The definition of untraceable firearm is revised to mean 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 federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

A "frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components. Any part with a serial number is presumed to be a frame or receiver.

An "unfinished frame or receiver" means one that is partially complete and may be readily completed, or is marketed or sold to be used as the frame or receiver of a functional firearm once completed.

Prohibition on the Manufacture of an Untraceable Firearm. The existing prohibition on the manufacture of an untraceable firearm with intent to sell is expanded. It is unlawful for any person to manufacture, cause to manufacture, assemble, or cause to assemble an untraceable firearm with intent to sell.

Effective July 1, 2022 a new provision of the law prohibits any person from the manufacture, causing the manufacture, assembly, or causing the assembly of an untraceable firearm. There are differences between the changes to the existing prohibition and the new provision. The existing prohibition relates to an intent to sell and violations are a class C felony. The new provision prohibits the manufacture without an intent to sell, and violations start with a civil infraction of \$500 for the first offense, followed by a misdemeanor for the second offense, and a gross misdemeanor for all subsequent offenses.

Other Prohibitions Related to an Untraceable Firearm. No person may sell, offer to sell, transfer, or purchase an untraceable firearm. After March 10, 2023, no person may knowingly or recklessly possess, transport, or receive an untraceable firearm. These

prohibitions are separate from the prohibitions against the manufacturing of untraceable firearms. Exceptions are provided for law enforcement; or a federal firearms importer, manufacturer, or dealer. Violations start with a civil infraction of \$500 for the first offense, followed by a misdemeanor for the second offense, and a gross misdemeanor for all subsequent offenses. If a person violates any of those laws with three or more untraceable firearms at a time, then the person is guilty of a gross misdemeanor. Each firearm is a separate violation.

Prohibitions on an Unfinished Frame or Receiver. No person may sell, offer to sell, transfer, or purchase an unfinished frame or receiver. Exceptions are provided for a federal firearms importer, manufacturer, or dealer; or the unfinished frame or receiver has a serial number imprinted on it. After March 10, 2023 no person may knowingly or recklessly possess, transport, or receive an unfinished frame or receiver. Exceptions are provided for law enforcement; or a federal firearms importer, manufacturer, or dealer; or the unfinished frame or receiver has a serial number imprinted on it. Violations start with a civil infraction of \$500 for the first offense, followed by a misdemeanor for the second offense, and a gross misdemeanor for all subsequent offenses. If a person violates any of those laws with three or more unfinished frames or receivers at a time, then the person is guilty of a gross misdemeanor. Each unfinished frame or receiver is a separate violation.

Marking Services and Records Retention. A federal firearms dealer or other federal licensee authorized to provide marking services for firearms may imprint a firearm or unfinished frame or receiver with a serial number in accordance with the requirements of federal law. The licensee shall retain records, in accordance with the requirements under federal law in the case of the sale of a firearm.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.