

SENATE BILL REPORT

ESHB 1705

As Reported by Senate Committee On:
Law & Justice, February 24, 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, 2/24/22 [DP, DNP].

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

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford.

Staff: Tim Ford (786-7423)

Background: Washington law defines untraceable firearms as 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. 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.

Staff Summary of Public Testimony: PRO: Gun violence is a public health crisis that has

reached record levels in out state. It is the leading cause of death of children and teenagers. Gun violence is preventable. This bill will ban untraceable guns, and people don't need to get a background check to obtain them online. Technology has changed everything about the way we live, and can be used to print or build guns at home and it puts domestic violence victims at risk. No one needs an untraceable firearm.

CON: This bill will negatively target Black communities. This bill does not stop criminals. Forty percent of nonviolent possession arrests are of African-Americans. There are a large number of home-made firearms in circulation. Blacks have been targeted for firearm control. This bill turns law abiding citizens into criminals. Crime rates are going up and police reform has left communities vulnerable.

Persons Testifying: PRO: Representative Liz Berry, Prime Sponsor; Lisa Herbold, Councilmember, City of Seattle; Sgt. Jordan Ferguson, Spokane Police Department; Matt Vadnal; Kim Gatbunton; Cherie Rowe Proctor, Grandmothers Against Gun Violence; Anne Francis Owen; Nancy Dombrowski.

CON: Andrew Wise; El'ona Kearney; Lisa Chang; Aoibheann Cline, National Rifle Association .

Persons Signed In To Testify But Not Testifying: PRO: Liz Hjelmseth; Jane Weiss; Jeannie Shu; Charlene Kahn; Hazel Brown; Tremayne Edwards; Kristen Ellingboe; Nelago Nuunyang; Sean Kent; Brian Duncan, Seattle Council PTSA.

CON: Eric Pratt, America; Sean Wade; CHRISTOPHER CASERTA; Michal pavlas; Brandon Pollack, All in One Jewelry and Loan; Britney Lau; Gelie Rabena ; Melissa Altermatt; Brandon Davis; John Gunn; Janet He ; Thomas Welch; Tyson Card, Constituent ; Shane Cridlebaugh, Washington Civil Rights Association; Patrick Oens; Ellen Bunke; Laurie Layne; Bobbie Piety; Sidney Lin; Autumn Bennett; Clinton Beyer; Aaron CoriA; Calvin Burris; Kenneth Patrick; Natasha Arzt.