

Vermont Federation of Sportsmen’s Clubs
Testimony on S.209
House Judiciary – 3/28/2024
Chris Bradley - VTFSC President

Section 1 – “Vermont Ghost Guns Act”; § 4081 through § 4084.

The Federation does not support this bill.

§ 4082 – Definitions

Subsection (8)

This subsection provides a definition of “**Unfinished frame or receiver**” to mean: “...*any forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture when it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.*”

Ladies and gentlemen: I believe that courts and Law Enforcement will struggle when it comes to interpreting what “readily” means.

Let’s consider the first part of that definition: “...*any forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture when it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm...*”.

If I purchase a 3-D Printer and appropriate filament(s), based on the referenced language, how could that roll of filament NOT be considered as a frame/receiver? Certainly, it can be “readily” converted into a frame/receiver by simply loading that filament into the printer, providing the printer with the correct printing specifications, pushing the Print button and walking away. Voila – out comes a 100% receiver.

In a similar line of thought, I refer the committee to the receiver images I have included with my testimony. One is a complete 100% receiver that I purchased only after going through a background check. The other is a piece of aluminum that is in the shape of a completed receiver which I purchased legally without a

background check as ATF rules say it is NOT a firearm.

The trailing part of the definition in subsection (8) states “...*or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.*”

That piece of metal has no markings on it whatsoever as to where it came from, when it was cast or what its ultimate purpose is. How would anyone prove how that piece of metal was marketed or sold, when – in its current form - it could be legitimately sold as a paperweight?

§ 4803 – Unlawful Conduct Involving Unserialized Firearms, Frames & Receivers

- (a)(1) – page 3, lines 7-10

Both State and Federal law allows a citizen to make their own firearm, and the ATF has provided guidance on when something is or is not a firearm.

When an object is not recognized by the ATF as a firearm, how can it be illegal to possess, transfer or offer to transfer something that is NOT a firearm according to Federal law?

- (a)(2)(B) – page 3, lines 14-16

It appears to us that the phrase “temporary possession” is problematic. If this bill were to pass immediately, then we believe that “temporary possession” would apply to the 9 or so months between now and December 31.

As an aside here, this committee may be surprised to learn that there are Vermonters who do not yet realize that there is a high-capacity magazine ban, and there are also Vermonters who do not yet realize there is a 3-day waiting period at guns stores.

There is undoubtedly Vermonters who have purchased unfinished frames or receivers across the past several years, and when they purchased them they were legal by Federal Law, and in fact are still legal by Federal Law.

These people may be in possession of unfinished frames or receivers for years – and never even know it.

How would it be proven that these Vermonters knowingly had these?

Many Problems

1. Many FFLs WILL NOT handle PMFs

In testimony before Senate Judiciary, Henry Parro of Parro's Gun Shop testified that his company does not handle Privately Made Firearms, so they would not be a place where a Vermonter could get his firearm serialized.

As of last night, ATF reports that there are 263 type 01 FFLs in Vermont. These would be "Dealers" / Gun Shops, with most of these being in the business of selling and buying, not in gunsmithing.

Also as of last night, there were approximately 91 type 07 FFLs which are classified as "Manufacturers", with these folks likely being gunsmiths.

Unfortunately: There was no attempt to count how many FFLs in the state would do the type of serialization required, where they are located or how much they charge.

Without knowing these things, it is conjecture as to how difficult it will be for a citizen who wants to comply with this law as to how far they will have to travel or how much it will cost.

2. Catch 22

There is a long-standing ATF rule that says that a serial number cannot be put into plastic or polymers – it must be put into metal – because serial numbers put into plastic/polymers would be very easy to deface.

If a person had legally made a firearm out of a 3D printed frame/receiver, they did so legally per Federal law and ATF rule, an interesting problem develops with this new law.

Because they did not use metal, no FFL can place a serial number into plastic/polymer.

The situation would then exist where a Vermonter had a firearm they built which was completely legal under Federal law and ATF rules, but which is illegal by Vermont law because there is no way to serialize it to bring it into compliance. I know this situation will exist.

3. **“Seeing” Serial Numbers**

As a person who considers himself to be pretty knowledgeable on firearms, I will tell you that – unless you are handling a firearm – it is next to impossible to “see” its serial number from a couple of feet away. For one thing, serial numbers are not very large, and these serial numbers can appear in different places on various firearms (even ones that are similar). They can appear on the bottom; either side; or on the top.

Even after handling the firearm and noting that you do not see a serial number does NOT necessarily indicate it is a “Ghost Gun”, because there are exemptions for firearms not being serialized (antiques; pre-1968 GCA firearms and inoperable firearms).

My point here is that it will be virtually impossible to find a ghost gun UNLESS it is used in crime such that Law Enforcement can physically examine the firearm up close.

4. **Punish the Use, It is impossible to control the making**

We believe the only truly useful and enforceable part of S.209 is to aggressively punish anyone who uses a Ghost Gun on a crime, as it is just not practical to believe we can control something that can be printed.

5. **Legal Issues**

As outlined by Legislative Counsel, courts have provided differing opinions on the constitutionality of Ghost Guns laws.

For the moment, perhaps we can all agree that there are several aspects of “Gun Control” which are under scrutiny by our Courts in light of the Heller,

McDonald, Caetano and Bruen decisions. I believe we heard Legislative Counsel suggest that the “good news” is that many of these cases are coming to a head, such that we will likely have a much clearer understanding of what laws are constitutional and what laws are not – in the very near future.

As an aside here, and should you be interested: Our lawsuit challenging the Magazine Ban and the 3-day Waiting period are moving along nicely, with Judge Sessions denying the State’s request to dismiss our motion for a TRO/Preliminary Injunction, with a Hearing on the TRO/PI occurring on May 23rd. We then expect our case to be heard in the July / August timeframe – and we are pretty confident on the outcome of both; if not from the Federal District Court in Burlington, then the 2nd Circuit or SCOTUS itself.

Given the very promising current outcome of cases such as *Vanderstock v Garland*, we do not see why this committee would be moving forward with a law whose constitutionality is in question, especially when it appears we are on the cusp of having a number of long-standing 2nd Amendment precedents struck down.

To better comport to Bruen and not infringe on the 2nd Amendment, we strongly suggest that the language of this bill be changed to only address the creation of a new felony crime that would punish anyone who uses an un-serialized firearm in the commission of a crime, with language that states that there SHALL be a both a minimum sentence as well as a maximum sentence, in addition to a required minimum / maximum fine amount, and on top of any charges for the felony crime committed itself.

Reducing this bill to just that offense accomplishes what we believe is the central goal of this bill: To reduce and hopefully eliminate the use of un-serialized firearms in felony crime by creating stiffer guidelines for punishment; doing so in a manner that does not create unenforceable laws that would significantly impact and hurt law-abiding citizens through loss of time and money.

In the final analysis, the net that will be cast to force serialization & background checks will only impact otherwise law-abiding citizens who have to find the time

and money to find a skilled gunsmith to perform the required serial-numbering work, when the chances of being caught are negligible. Some will adhere, but I suggest that many will not, either through conscious resistance or simple ignorance.

Short of going door-to-door or being found in crime; they will never be found and if found – not prosecuted.

Section 2 – 13 VSA § 4019a amendment

The VTFSC fully supports this section.

Section 3 – 13 VSA § 4027

We do not oppose this section.

1) SCOTUS Decision in Bruen

In the Bruen decision, “polling places” were specifically mentioned as a location that should be considered a “sensitive place”.

Further than that, we believe that polling locations are quite often on school property, and there is existing law concerning the possession of firearms on school property.

2) Why are only Firearms Prohibited?

We understand that when firearms are only considered as an offensive weapon, how their open display would be intimidating at a polling place.

In all seriousness: Shouldn't a more expansive description be used? Wouldn't a group of people standing about with pitchforks, maces, baseball bats, hammers, spears and the like also be intimidating? Would we be inviting such displays by passing a bill that was only limited to using firearms as an expression of intimidation?

3) Poll Workers

We believe it possible that a person could be performing their official duties as listed in (c)(2) “...as an employee of the United States; a department or agency of the United States; a state; or a department, agency or political

subdivision of a state”, but NOT be otherwise authorized to be armed.

a. Is that a concern?

b. It would appear that Poll Workers would be required to be disarmed?

Section 4 – 24 VSA 2291

This section was removed, but we understand it may be coming back in some other form.

To be clear: What was being inserted into S.209 as Section 4 was H.525, a bill that never made it out of House Government Operations where it was referred / assigned.

We further understand that the impetus behind H.525 is a single person who has proven to be a problematic “bully” in one Vermont town, and we will be pleased to outline the numerous existing laws which already exist to handle such miscreants.

Being a Dillion’s Rule State has served all Vermonters VERY WELL - with no reason to change it – especially for one, single, problem Vermonter.