

## Testimony in Opposition to Senate Bill 0958 of 2020

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Representing Myself

SB958 has many fundamental flaws, the most significant of which is that it assumes any person fabricating a firearm themselves does so for criminal purposes. That couldn't be further from the truth. There are a significant number of hobbyist machinists and amateur gunsmiths in Maryland who fabricate their own either for the satisfaction and novelty of "do it yourself", to build a customized firearms for high-precision target shooting, or to create a family heirloom that is higher quality than what's commercially available.

I am one of those hobbyist machinists. My primary interest is in antique firearms, particularly early and experimental cartridge arms from the mid to late 19<sup>th</sup> Century. I have been slowly building my skills and collection of tools as an amateur machinist, with the intent of creating replicas of early cartridge firearms for my collection that, because of their rare, antique status, are unaffordable or simply unavailable.

In fact, the way SB0958 is worded, using the definition of "Firearm" from § 5-101 of the Public Safety Article<sup>1</sup>, reproductions of muzzle loaders such as those used by Civil War re-enactors, would be banned. They are not firearms under Federal law, and do not need to be manufactured by FFL manufacturers, nor imported by FFL importers. And therefore they would fall afoul of this bill because they would lack a serial number issued by a Maryland-authorized source. Does MSP plan on arresting entire units from the next re-enactment at Antietam? Because any of the participants with reproduction muskets or cavalry carbines made after 1968 would appear to be in violation of SB0958 as worded.

Yes, it is possible for a prohibited person to build their own modern firearm. It's also possible for them to steal one, which as Baltimore crime statistics bear out, is far and away the preferred method for violent previous offenders to obtain guns to commit crimes. Nobody wants convicted violent felons to have the tools to re-offend. But the only people this bill will stop from fabricating firearms is hobbyists and others already predisposed to follow the law.

SB0958 tries to fix the fear of criminal fabrication and unlawful use of guns with legislative sledgehammer surgery. It is a blanket ban on all fabrication and possession of non-commercial firearms. Even California's Code of Regulations Title 11, Division 5, Chapter 14, provides mechanisms for legally producing and serializing self-made firearms, as well as grandfathering existing units. But not Maryland, under SB0958.

Unrelated to the antiques issue, the bill's proposed ban on dissemination of computer code for amateur firearms fabrication runs afoul of the 1<sup>st</sup> Amendment's freedom of speech and press protections. This isn't speculation on my part. The fact that computer code is a means of protected expression and communication was affirmed by the US Court of Appeals, 9<sup>th</sup> Circuit, in *Bernstein vs. Department of Justice* (1999), and is now established law.

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<sup>1</sup>(h)(1) "Firearm" means:

- (i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or
- (ii) the frame or receiver of such a weapon.

If SB0958 becomes law, not only will I be unable to produce any future replicas of historic firearms for my hobby, I will have to dispose of any existing self-crafted firearms. That regulatory taking will cost the thousands of dollars invested in each rifle that must be turned in or destroyed in order to comply. I don't make firearms with using cheap, plastic 3D printing, or print files downloaded off the Internet. I fabricate out of metal and wood with real machine tools and hand craftsmanship, with quality in mind. One of them is the single most accurate bolt-action target rifle I own, better than any industriallymanufactured target rifle I've ever bought. Why do I have to part with that because of what criminals have done, and will continue to do, even if this bill is passed?

And, by the way, I engrave everything I've fabricated with my name, and, yes, with a serial number, that comply with ATF commercial firearm marking standards, found in 27 CFR 478.92, even though I don't have to.

SB0958 is a draconian bill that misses its target of preventing prohibited persons from obtaining firearms. It's only significant effects will be on those who follow the law in their acquisition and use of firearms. Even California's very anti-gun legislature thought the types of categorical bans and regulatory takings contained in this bill go to far. Vote against virtue signalling run amok, vote UNFAVORABLE this bill.