

Robert Brunger

February 15, 2021

Opposition to SB624

I am a small business owner, Curio and Relic Federal Firearm License holder, Maryland wear and carry permit holder, and gun-making hobbyist living in Calvert County Maryland.

I have been making firearms at home for personal use for the past 6 years. I also am the sole proprietor, in partnership with my wife, of a laser engraving business with a specialization in applying custom designs to unfinished receivers. This bill, if passed, would put me and my wife out of business by making unfinished receivers Regulated Firearms. Being a small, home-based business, I do not meet the zoning requirements required to obtain a manufacture Federal Firearms License (FFL type 07) or an importer Federal Firearms License (FFL type 08), specified in the bill as the only entities that can apply serial numbers post January 1, 2022. If I were somehow able to get a FFL type 07 or FFL type 08, I would need to purchase tens of thousands of dollars worth of equipment in order to meet the depth requirements of federal regulation 27 CFR § 479.102, which specifies the requirements of serial numbers; my current laser is specifically cosmetic in order to protect the existing finish. Should I not be able to afford the purchase tens of thousands of dollars of expense for new marking equipment before January 1 2022, I would need to liquidate, destroy, or pay to have every unfinished receiver engraved, at which point I would be unable to transfer it. It would cost me more than the stock itself to have it engraved. All of this is notwithstanding the engraving cost to legally maintain my personal homemade firearms. Should this bill pass, I would lose my business and thousands of dollars.

Beyond the direct impacts on myself and my business, making unfinished receivers Regulated Firearms would pose a significant expense and risk to the Maryland State Police. MD Code, Public Safety § 5-117 states:

[a] person must submit a firearm application in accordance with this subtitle before the person purchases, rents, or transfers a regulated firearm.

That application is called a 77R. The State Police use that application to conduct a background check on the sale of the regulated firearm using the Federal NICS database and various state databases. 28 C.F.R. 25.6 states:

(a) FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act. FFLs are strictly prohibited from initiating a NICS background check for any other purpose.

It goes on to state:

(j) Access to the NICS Index for purposes unrelated to NICS background checks required by the Brady Act. Access to the NICS Index for purposes unrelated to NICS background checks pursuant to 18 U.S.C. 922(t) shall be limited to uses for the purposes of:

(1) Providing information to Federal, state, tribal, or local criminal justice agencies in connection with the issuance of a firearm-related or explosives-related permit or license, including permits or licenses to possess, acquire, or transfer a firearm, or to carry a concealed firearm, or to import, manufacture, deal in, or purchase explosives;

(2) Responding to an inquiry from the Bureau of Alcohol, Tobacco, Firearms, and Explosives in connection with a civil or criminal law enforcement activity relating to the Gun Control Act (18 U.S.C. Chapter 44) or the National Firearms Act (26 U.S.C. Chapter 53); or,

(3) Disposing of firearms in the possession of a Federal, state, tribal, or local criminal justice agency.

28 C.F.R. 25.6 is quite clear that the NICS database cannot be used for items that do not meet the federal definition of firearms.

Should the state police run a NICS check on an unfinished frame or receiver, they would be subject to 28 CFR § 25.11, which would result in a \$10,000 fine and, more importantly, loss of access to the NICS system. Simply put, unfinished frames or receivers cannot be treated as regulated firearms as the current regulated firearm system exists.

Because of the federal restrictions on the use of NICS for non-federally-defined firearms, Maryland state police would have to overhaul the 77r process to track whether the item in question is a federally defined firearm. Should the MSP accidentally run NICS check on an unfinished frame or receiver, they would lose all access to perform NICS checks for any reason, including all other regulated firearms.

The serialization requirement itself would be troublesome. Many homemade firearms do not have a location large enough to accommodate the information required by this bill. Some homemade firearms lack a suitable location altogether due to the materials of construction. For these items, this bill would be a de facto ban on possession. The change in who is authorized to apply a serial number post January 1, 2021 is needlessly burdensome; if a Marylander has the necessary equipment and experience to apply a serial number as specified, why should they be prohibited from doing so solely because they do not have a Federal Firearm License?

There is an inherent irony that one is prohibited from legally exercising a constitutionally-protected right unless they patronize a private third party - a third party who can deny service for any reason under their first amendment right. It would be no

different from requiring that all first amendment activity go through registered journalists. One should be able to exercise their constitutionally-guaranteed rights in a vacuum if they have the capability to do so, and not be explicitly reliant on third parties.

This bill would only limit law-abiding Marylanders; anyone seeking to subvert this law would only have to drive across the border to a neighboring state to purchase an unfinished receiver, or have a firearm sent to a PO Box in PA or VA or WV or DE and Maryland would have no mechanism of enforcement unless a crime was committed with it. A criminal is not going to apply his name to a gun he made illegally for the sake of aiding law enforcement in putting him behind bars. The only case where this law would be relevant is if a homemade firearm was stolen, a crime which is not a felony or prohibiting offense, in which case the law-abiding owner is a victim. The number of cases where the name on the firearm is that of the person who has broken a law will be negligible. There are much easier avenues to address criminal misuse of firearms than adding marking requirements, such as the enforcement of the prohibited persons in possession of firearms, which comes with a 5-year mandatory minimum sentence. (MD Public Safety Title 5 – Firearms Subtitle 1 - Regulated Firearms § 5-133).