

Opposing Testimony
Proposed Senate Bill 624 (HB 638)

Matthew Dunbar
Federal Firearms Licensed Manufacturer
740.200.0060 • business@dronthem.com

Dear Mr Chairman,

As a Federally Licensed Firearms Manufacturer, I would like to state emphatically that this bill is ill-conceived, and so poorly written as to make it totally impossible to be in compliance, not merely as a private individual, but not even as a Licensed Manufacturer. While this bill purports to address a new category of ‘ghost guns’, in reality, this is not a new, nor unusual category, or one for concern at all given there is a body of well-established law covering marking requirements for firearms. Instead, as proposed, *this bill amounts to a ban of all firearms manufacturing from unfinished receivers within Maryland.* In the following testimony I will address no fewer than eight fatal flaws in the proposed bill.

One — this law is totally unnecessary. It has *always* been legal in the United States *for private individuals who are not barred from legally possessing firearms* to manufacture firearms for their own personal use. This is not at all new or novel, and there is a significant federal body of law already in existence that more than adequately covers how this may be done legally. This proposed law would criminalize this right. That, in and of itself is unacceptable.

Beyond that, the law serves to further no real public interest. There are zero firearms crimes committed with an ‘unfinished receiver’. There never have been, and there never will be. It is impossible, because — by their very nature — they are *incomplete, and unusable.*

In the event that an ‘unfinished receiver’ is completed, it becomes a firearm, *subject to all of the laws already in existence, including federal marking requirements.* If that firearm is manufactured for resale, there is already an established and comprehensive body of law detailing marking requirements. Additionally, Maryland law already establishes an extensive framework for what may legally be manufactured, for personal use or for sale, within the State.

Law abiding citizens *already* comply with those laws and their requirements. If someone already fails to comply with the existing body of law, adding to that body of law will do nothing more than to further burden law abiding citizens, who pose no problems, while having no effect upon any criminals disregarding existing law. Enforcing the well-established laws already in place, instead of creating new ones, would be more than sufficient to address any manufacturing-related concerns or crimes.

Two — critically — Federal law provides clear guidance on what legally constitutes a firearm, what individual parts are just components, and what parts — the receiver — will eventually constitute a firearm. Federal law also provides clear guidance as to the point at which an ‘unfinished receiver’ becomes a firearm. At 80% an ‘unfinished receiver’ is a paperweight. At 81% complete, an ‘unfinished receiver’ is considered a firearm. *This percentage was not arrived at at random.*

To manufacture a firearm from raw material, and do so in a way in which it is, and will remain safe, functional, and reliable requires quality materials, costly equipment, and specialized knowledge.

There is a large amount of work involved in going from raw material to an 80% complete receiver. Very few manufacturers possess all of the tooling required to produce a complete receiver from raw materials. Much like an automobile manufacturer does not create every single component of an automobile from scratch, but leaves the manufacture of those components to companies specializing in those particular parts, firearms manufacturing relies upon components manufactured by companies specializing in individual parts. Receivers are no exception to this.

Realizing that firearms manufacturing serves an important need, Federal law establishes the definition of the point at which an ‘unfinished receiver’ becomes a ‘firearm’ at a point in the machining process that is economically viable. At 80%, the majority of the difficult and expensive process required to manufacture a fully-finished receiver has been completed, but a not insignificant amount of precise machining, requiring specific specialized knowledge, is still required in order to finish an 80% receiver to turn it into a functional firearm. An 80% receiver is not remotely functional. It cannot yet even be attached to other components. It, in both very real terms and by current definition, is NOT a firearm. This allows manufacturers to

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ship them as normal material without impossibly burdensome requirements for inventory control and record keeping. If an 80% receiver is damaged, it can be destroyed or recycled without a restrictive, burdensome and expensive record keeping requirement. It can be processed and completed by a manufacturer in a way that is still economically viable, but prior to such final tooling and machining, such an 'unfinished receiver' is still no more than a block of material, capable of holding down a stack of papers, but in no way even resembling anything functionally able to be used as a firearm.

The definition of an 'unfinished receiver' in Proposed Senate Bill 614 (HB 638) would completely upend that balance. The proposed definition is so overly broad and incomprehensible that it would effectively define raw metal or polymer eventually destined to *become* a receiver as an 'unfinished receiver' based effectively upon *intent*, instead of being based upon a clear and comprehensible set of quantifiable attributes. This is completely unworkable.

Under current, long-established law, ATF sets clear definitions for what constitutes varying degrees of completion for a given receiver. These definitions are important, and form the basis for the entire body of relevant law surrounding firearms manufacture and inventory control, what constitutes a serialized component for a firearm, and what does not. Both Federal and Maryland law currently provide clear and unequivocal requirements for marking and serializing firearms (i.e. receiver or frame), and prohibitions for the alteration or removal of markings and serial numbers, and those definitions are based upon the point at which a receiver becomes a firearm.

Under the proposed requirements, even a single raw, un-machined billet of metal or container of polymer would be required to be serialized and engraved, and be subject to all of the tracking and record keeping requirements of a fully completed firearm. This would be simultaneously tremendously burdensome and totally redundant. Tracking raw materials this early in the manufacturing process would impose a significant amount of additional paperwork, time, and effort at every stage in the supply chain while providing no real benefit. As the law currently stands, all of the record keeping requirements for a firearm begin at the point a receiver exceeds 80% completion (in real world terms a receiver is normally fully completed, then engraved upon completion in accordance with existing law, but, in the event that process was interrupted between 80% and 100% the existing requirements would then still apply). Prior to that point, there is nothing worth tracking — specifically, it is NOT a usable component, so there is no rational, meaningful reason to impose the significant, burdensome record keeping overhead any earlier in the process. To be clear, an 'unfinished receiver' is not functional until it is actually 100% complete. That final 20% margin *already* provides a significant burden of operations to complete where firearms laws apply, even before that receiver ever reaches a form in which it can be used to construct a useable firearm.

Three — the proposed additional record keeping requirements are extremely expansive and incredibly burdensome. The additional requirements for materials tracking would not only be significant, but would make manufacturing of receivers, which is already a low-profit-margin endeavor, even more expensive, and result in a significant increase in cost that would be required to be passed along the entire manufacturing chain, adding additional costs at every step, and resulting in a significant increase in prices for the consumer. This would in effect, for many Maryland citizens, prohibit access to firearms based upon economic status, and thus violate the 14th Amendment, Section 1 Equal Protection clause.

Four — the proposed law, as written, would prohibit the sale or transfer of unfinished frames or receivers, except to family members or law enforcement. There is no provision provided for Manufacturers or Licensees to conduct business between one another, or to individuals, effectively banning all related commercial activity. This, for manufacturers and licensees, constitutes restraint of trade.

Five — the proposed marking requirements for an 'incomplete receiver' based upon the proposed vague and incomprehensible definition, combined with the prohibitions upon altering or removing required engravings would make it impossible to actually manufacture a completed receiver even from the raw materials, because some of the manufacturing methods required necessarily remove or alter material as a part of those processes. Marking raw material in such a way as to preserve those markings during manufacturing would be effectively impossible. This, for manufacturers, constitutes restraint of trade.

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Six — the proposed new engraving requirements and definitions are not only redundant *because Federal law already clearly stipulates engraving and serialization requirements covering the proposed requirements for firearms*, BUT, those proposed *also contradict* federal engraving guidelines. Manufacturer, importer, model, and caliber markings are *already* required. Those markings, however, are *separate requirements from and in addition to* the already federally mandated serial number markings. Indeed, federal law even specifies specific requirements for the format of serial numbers. *The proposed law would require all of those separate markings to be part of the serial number itself*. This would require significant alterations to existing markings, and alterations to existing serial numbers, which is already prohibited by law. This, by definition, would make compliance impossible.

Federal law provides very specific guidelines for the registration of serial number ranges and even for what characters are permitted within serial numbers that would make the proposed requirements impossible to meet for many manufacturers — not least of which is that the letters ‘I’ and ‘O’ are prohibited within serial numbers. Also, many frames and receivers are not caliber-specific until they are mated with a barrel and related components of the action of a given firearm, so, requiring caliber to be part of a serial number would preclude effective and efficient use of frames and receivers in the normal manufacturing process, if such caliber markings had to be added in advance and then restricted how those frames or receivers could be utilized.

Federally, for receivers and frames this is addressed either by the use of ‘multi’ as an acceptable catch all in place of a specific caliber, or by including caliber markings on the barrel or slide of completed firearms rather than the receiver, resulting in a complete set of markings meeting requirements in a way that also reflect the realities of the manufacturing process. The proposed bill takes none of this into account.

Seven — the proposed law would require additional markings for every single firearm, and every single ‘unfinished receiver’ *imported into Maryland*. This would be an incredibly expensive and burdensome requirement, over and above the very clear and extensive requirements *already required* by the detailed body of existing law, while providing zero added benefit. This would significantly increase the cost of firearms (by on average \$35 to \$50 dollars per firearm) and receivers (on average, by 50 to 100 percent) since few retailers have either the equipment or expertise to do so themselves, providing a completely unnecessary financial burden for citizens of Maryland, effectively making it more difficult, if not impossible for many citizens to be able to afford firearms. This would, again, prohibit access to firearms based upon economic status, and thus violate the 14th Amendment, Section 1 Equal Protection clause.

Eight — the proposed penalties for violations are entirely out of proportion with the proposed new crimes outlined. For those of us who have gone through not insignificant effort to become licensed, suspension of licensure for a first offense, a likely concern considering it would be impossible to be compliant with the proposed law, is also likely to lead to problems when attempting renewal, or to the flat out revocation of licensure prior to expiration of the existing license, even without a second offense. Revocation of licensure is likely to lead to permanent denial of any future license applications. Further, as this would be a firearms-related offense, this could lead also to permanent forfeiture of rights to possess firearms, let alone continue in firearms-related business. Business aside, this is also a serious risk for private citizens. This is egregious, especially considering the bill is pointless on its face at best, and incredibly harmful at its worst.

In summary, any one of the above-detailed flaws are grounds to reject the proposed bill. All of them together are disastrous. This bill seeks to regulate a non-problem, define new crimes and establish significant penalties, while unnecessarily reiterating or contradicting already established laws. The real effect — if not the intent — would be the total curtailment of any firearms manufacturing whatsoever in Maryland related to unfinished receivers or frames, either licensed or private, while clearly violating citizen’s rights under the Second and 14th Amendments. It would also place heavy burdens on interstate, rather than intra-state commerce, given that nearly every firearm or receiver transferred or sold within the state originates outside of Maryland. It provides no resulting positive public interest, let alone one that would justify these serious burdens upon fundamental rights. This bill cannot proceed. It *must* be rejected.

Thank you for your time and consideration.