

ASSEMBLY THIRD READING

AB 2156 (Wicks)

As Amended March 23, 2022

Majority vote

SUMMARY

Expands the prohibitions on the manufacture of firearms without a state license.

Major Provisions

- 1) Reduces the number of firearms that a person, firm, or corporation may manufacture in a calendar year without having a state license to manufacture firearms from 50 to three.
- 2) Prohibits a person, firm, or corporation from using a three-dimensional printer to manufacture any firearm, including a frame or receiver, or any firearm precursor part, without having a state license to manufacture firearms.
- 3) Defines "three-dimensional printer" as "a computer-aided manufacturing device capable of producing a three-dimensional object from a three-dimensional digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a three-dimensional object."

COMMENTS**According to the Author**

"California has seen a troubling increase of gun violence predominately in Black and Latino communities of more than 500 homicides, with nationwide spikes at 35 percent. Additionally, the state witnessed a surge in gun sales, fuel by economic insecurity, racial and political unrest that corresponds with the COVID-19 pandemic. In 2020, about 1.17 million new guns were registered in California, and as many as 369,000 receiving firearm background check process for the first time. In that same year, Californians registered 317, 257 rifles, 161, 330 shotguns, 585, 409 semi-automatic pistols and 94, 194 revolvers.

"In an effort to limit the amount of firearms produced in the California and to prevent future gun violence and increased homicides, AB 2156 will require people or corporations who manufacture more than three firearms per year to obtain a California manufacturer's license. Additionally, it would require a person or corporation to obtain a California firearm manufacturer's license in order to use a 3-D printer to produce firearms, frames, firearm precursor parts, or magazines. Existing law allows individuals and corporations to manufacture an unlimited number of firearms without complying with standard manufacturing requirements. This bill will close this loophole in existing law and prevent future gun violence by ensuring that individuals and corporations who manufacture guns comply with manufacturing requirements"

Arguments in Support

According to *Giffords*, the sponsor of this bill, "California has some of the nation's strongest laws governing the sale of firearms, but our laws governing firearm manufacturers have not kept pace. As a result of these gaps, California has seen an exploding market develop in gun build kits

and related products that allow unlicensed, amateur gun makers to effectively circumvent state and federal gun sale laws by building their own firearms with parts sold through significantly less regulated, unlicensed channels.

"It is clear that this market is far broader than a small community of law-abiding, gun building hobbyists. Relatively untraceable "homemade" weapons—often called ghost guns because they are sold without traceable sale records or serial numbers—are now a leading source of crime guns in our state. Advertisements and marketing materials for ghost gun products routinely emphasize the fact that these products are sold without traceable serial numbers and are otherwise significantly less regulated in California than fully assembled firearms or completed frames or receivers. People who could not easily acquire guns through other legal means in our state, including minors, have clearly taken note....

"AB 2156 (Wicks) would address another aspect of this issue by requiring more individuals and businesses to obtain a firearm manufacturer license and, accordingly, to comply with California's firearm manufacturing laws, if they manufacture four or more firearms per year or manufacture any number of firearms using a 3D printer.

"Existing California law places important public safety requirements on *some* commercial firearm manufacturers by requiring *some* manufacturers to obtain a license to manufacture firearms from the California Department of Justice (DOJ). These California-licensed manufacturers are required to comply with specified responsible business practices. For example, California-licensed manufacturers are required to:

- 1) Conduct manufacturing operations only in designated buildings that meet specified site security standards to prevent firearm thefts;
- 2) Ensure that all firearms, frames or receivers, and unfinished frames or receivers produced by the manufacturer are stamped with a unique serial number to aid in investigation of gun crimes and trafficking;
- 3) Ensure that all employees who handle firearms pass annual background checks;
- 4) Notify local law enforcement that the manufacturer will be manufacturing firearms in a designated location and allow routine inspections to ensure the licensee operates legally;
- 5) Retain manufacturing records identifying all firearms, frames, and unfinished frames they manufacture.

"These California firearm manufacturing laws reflect the basic, important principle that manufacturing weapons designed to take human life is a serious enterprise that requires reasonable oversight, transparency, and responsible business practice.

"However, two major gaps in California's manufacturing law allow people or corporations to manufacture large numbers of firearms without obtaining a California manufacturer's license and three therefore, without complying with any of the standard public safety precautions required of California licensees.

"First, current California law only requires people or businesses to obtain a California firearm manufacturer's license if they have already obtained a federal firearm manufacturer's license issued by ATF. Federal law requires a federal firearm manufacturer's license if a business or corporation is "engaged in the business" of manufacturing firearms, but it is widely known that an underfunded ATF has been unable to effectively enforce this openly flouted federal license

requirement. Individuals and businesses who fail to obtain a federal manufacturer's license are currently effectively exempt from California's licensing requirement and related manufacturing laws.

"Second, current California law only requires a California firearm manufacturer's license from people or businesses that manufacture 50 or more firearms per calendar year in the state. People and companies who manufacture up to 49 deadly weapons every year are exempt from obtaining California firearm manufacturers licenses and, as a result, they are also exempt from the standard public safety precautions placed on licensed manufacturers.

"Individuals or corporations who wrongfully fail to obtain a federal manufacturer's license should not be exempt from California's firearm manufacturing laws. And those producing large numbers of deadly weapons per year should be assumed to be in the business of manufacturing firearms for subsequent distribution to others, and should also be subject to California's firearm manufacturer laws accordingly.

"Finally, current California law also does not expressly prohibit unlicensed manufacturers from using 3-D printers to manufacture their own firearms or key firearm components. While very few ghost guns are currently produced from 3-D printers, developments in 3-D printing technology could soon make this a dangerous and attractive source of weapons for people seeking to circumvent California's laws governing the sale of firearms and gun build kits, especially if the Legislature passes additional legislation to strengthen regulation of the sale of ghost gun components. Requiring individuals and corporations to obtain a California firearm manufacturer's license to produce firearms using this method would help ensure that 3-D printed guns are subject to some reasonable oversight and regulation too....

"Simply put, we believe that California law should generally require people and business who manufacture guns to obtain a manufacturing license and comply with California's manufacturing laws, with reasonable exceptions for individuals manufacturing a relatively small number of firearms intended only for personal use. AB 2156 (Wicks) would do just that by requiring individuals or corporations who manufacture four or more firearms per year in California, or who 4 manufacture firearms using a 3-D printer, to obtain a California firearm manufacturing license and comply with California's firearm manufacturing laws."

Arguments in Opposition

According to the *California Rifle and Pistol Association*, "We are confused about the authors' intent for this legislation. In July 2016 Governor Brown signed into law Assembly Bill 857 (AB 857) the 'ghost gun' serialization requirements. AB 857 already makes it illegal manufacture or to turn any 'precursor part' into a firearm without proper registration and serialization from DOJ. This process includes a completion of a background check. Which begs the question; what is the true intent and necessity of banning individuals from manufacturing 'firearm precursor parts'. Additionally, as AB 2156 sets to prohibit the manufacture of precursor parts, while we are still waiting for the definition of what "parts" are worthy of being "firearm precursor parts"? Furthermore, there are already regulations which make it unlawful to manufacture large capacity magazines and 'zip' guns (cheap 'homemade' makeshift guns / [Penal Code Sections] 17360 and 33600)."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs (General Fund and the Dealer Record of Sale Fund) of as low as \$14,000 annually to as much as \$518,000 in fiscal year (FY) 2022-23, \$510,000 in FY 2023-24 and \$21,000 annually thereafter to the Department of Justice (DOJ) in additional staff and technological upgrades, depending on how many new applications DOJ receives for a manufacturer license and how many violations of the manufacturing requirements DOJ must investigate annually. DOJ received two positions and \$981,000 in 2020-21, \$306,000 in 2021-22 and \$232,000 annually thereafter to track firearms as required by SB 376 (Portantino), Chapter 378, Statutes of 2019. SB 376 requires any person manufacturing 50 or more firearms be a licensed manufacturer. However, DOJ anticipates there will be an increase in the number of licensing requests each year because of this bill, possibly resulting in the need for additional staff or overtime funds and system infrastructure to license more firearm manufacturers each year. DOJ anticipates receiving 274 applications in FY 2022-23. In order to process the increase in license applications, DOJ estimates 137.5 overtime hours in FY 2022-23 and 275 overtime hours in FY 2023-24 and ongoing.
- 2) Possible cost pressure (Trial Court Trust Fund) in the low hundreds of thousands of dollars given that this bill creates a new misdemeanor penalty for any person who manufactures a 3D-printed firearm without a license. A defendant charged with a misdemeanor or felony is entitled to no-cost legal representation and a jury trial. If 15 new crimes are filed annually statewide and proceed to trial resulting in two days of court time, at an estimated cost of approximately \$8,000 for an eight-hour court day, the approximate annual cost to the courts is \$240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. The Governor's 2022-23 budget allocates \$13.4 million dollars annually to backfill the loss of funding from criminal fines and fees and \$117.8 million dollars annually to continue backfilling the Trial Court Trust Fund to address the decline in revenue.
- 3) Likely non-reimbursable costs to counties in possible increased incarceration. The average cost of incarcerating a person in county jail is approximately \$100 per day or a total of \$3,000 for a 30-day sentence. If 100 people are sentenced to a minimum of 30 days, the cost statewide would be \$300,000. Government Code section 17556(g) prohibits reimbursement for a criminal penalty change. However, Proposition 30 was enacted after relevant provisions of section 17556 and may require reimbursement for legislation enacted after September 30, 2012, that has the overall effect of increasing cost burdens on local law enforcement. Proposition 30 has never been litigated, therefore, it is unknown whether section 17556(g) still controls. If so, costs to counties for longer jail sentences would not be reimbursable.

VOTES**ASM PUBLIC SAFETY: 5-2-0**

YES: Jones-Sawyer, Mia Bonta, Bryan, Quirk, Santiago

NO: Lackey, Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

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