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THIRD READING

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Bill No: AB 2156  
Author: Wicks (D)  
Amended: 3/23/22 in Assembly  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/8/22  
AYES: Bradford, Kamlager, Skinner, Wiener  
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-1, 6/13/22  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Jones  
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 54-16, 5/25/22 - See last page for vote

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**SUBJECT:** Firearms: manufacturers

**SOURCE:** Giffords Law Center

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**DIGEST:** This bill expands the prohibitions on the manufacture of firearms without a state license including reducing the number of guns a person may manufacture without a license and prohibiting the use of a three-dimensional printer to manufacture any firearm without a license.

**ANALYSIS:**

Existing law:

- 1) Provides, pursuant to federal law, that no person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until that person has filed an application with and received a license to do so from the Attorney General of the United States. (18 U.S.C. §923 (a).)

- 2) Requires a person, firm or corporation manufacturing 50 or more firearms each year in the state to be licensed as a manufacturer. (Penal Code § 29010.)
- 3) Provides that the Department of Justice (DOJ) shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state. (Penal Code § 29050 (a).)
- 4) Prohibits the DOJ from granting a license unless and until the applicant presents proof of all of the following:
  - a) A valid license to manufacture firearms issued by the Federal Government;
  - b) Any regulatory or business license required by local government;
  - c) A valid seller's permit or resale certificate issued by the State Board of Equalization, if applicable; and,
  - d) A certificate of eligibility issued by the DOJ. (Penal Code § 29050 (b).)
- 5) Requires the DOJ to maintain a centralized list of all persons licensed to manufacture firearms. (Penal Code § 29060.)
- 6) Provides that a firearms manufacturer's license can be revoked and that a licensee may become permanently ineligible to hold a license, as specified. (Penal Code § 29065.)
- 7) Defines a "zip gun" as a weapon or device that meets the following criteria:
  - a) It was not imported as a firearm by an importer with a federal license;
  - b) It was not originally designed to be a firearm by a manufacturer with a federal license;
  - c) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device as provided by federal law; and,
  - d) It is made or altered to expel a projectile by the force of an explosion or other form of combustion. (Penal Code § 17360.)
- 8) Makes it a crime to manufacture, or cause to be manufactured, import into the state, keep for sale, or offer or expose for sale, or give, lend, or possess a zip gun, and punishes the offense as an alternate felony-misdemeanor, a "wobbler." (Penal Code § 33600.)

This bill:

- 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. A violation is a misdemeanor.
- 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. A violation is a misdemeanor.
- 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.”

## **Background**

### *State Licensing for Manufacturing Firearms*

In 1998, legislation was enacted to require state licensing of federal firearms manufacturers if they manufactured more than 100 firearms within this state. SB 376 (Portantino, Chapter 738, Statutes of 2019), effective January 1, 2020, changed the number of firearms a person can manufacture without a State license to 50. This bill further reduces that number to three.

Supporters argue that allowing a person to manufacture up to 49 guns without a license is contributing to the proliferation of untraceable guns without serial numbers.

### *3D Printed Firearms*

In its proposed rule to provide new regulatory definitions to various terms including, firearm, frame or receiver, gunsmith, and privately made firearm, the U.S. Department of Justice, Alcohol, Tobacco, Firearms, and Explosives Bureau (ATF), notes:

Technological advances have also made it easier for unlicensed persons to make firearms at home from standalone parts or weapon parts kits, or by using 3D printers or personally owned or leased equipment, without any records or a background check. Commonly referred to as “ghost guns,” these privately made firearms (“PMFs”), when made for personal use, are not required by the

GCA to have a serial number placed on the frame or receiver, making it difficult for law enforcement to determine where, by whom, or when they were manufactured, and to whom they were sold or otherwise disposed.

In recent years, the number of PMFs recovered from crime scenes throughout the country has increased. From January 1, 2016, through December 31, 2020, there were approximately 23,906 suspected PMFs reported to ATF as having been recovered by law enforcement from potential crime scenes, including 325 homicides or attempted homicides. (ATF, Definition of “Frame or Receiver” and Identification of Firearms, Proposed Rule, 86 Fed. Reg. 27720 (May 21, 2021). Available at: <https://www.federalregister.gov/d/2021-10058>.)

Current state law requires a person manufacturing or assembling a firearm to apply to the DOJ for a unique serial number or other mark of identification for that firearm. (Penal Code § 29180 (b)(1).) This bill requires a state firearms manufacturing license in order for any person to make a firearm or firearm precursor parts with a 3-D printer.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Costs ranging from \$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 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 (Special Fund - Dealer Record of Sale (DROS) Fund, General Fund).
- Potentially significant costs pressures resulting from additional court workload resulting due to the creation of a new misdemeanor offense (Special Fund – Trial Court trust Fund, General Fund).

**SUPPORT:** (Verified 6/13/22)

Giffords Law Center (source)

Brady Campaign

Brady Campaign California

Everytown for Gun Safety Action Fund

Moms Demand Action for Gun Sense in America

Students Demand Action for Gun Sense in America

**OPPOSITION:** (Verified 6/13/22)

California Rifle and Pistol Association, Inc.  
California Sportsman's Lobby, Inc.  
Outdoor Sportsmen's Coalition of California  
Safari Club International - California Chapters

**ARGUMENTS IN SUPPORT:** Brady Campaign California supports this bill stating:

California has some of the nation's strongest laws governing the sale of firearms, but two major loopholes in the legal regime permit individuals and corporations without a manufacturer's license to produce unlimited numbers of firearms. 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; meaning, individuals and businesses who fail to obtain a federal manufacturer's license are effectively exempt from California's licensing requirement. Second, California only requires individuals or businesses manufacturing 50 or more firearms per calendar year to obtain a California manufacturer's license. People and companies manufacturing up to 49 deadly weapons every year are exempt from obtaining the license. As a result, the market in California for gun build kits, including "ghost guns"--or home made, DIY guns that are sold without serial numbers and therefore untraceable-- and related products, has exploded. Advertisements and marketing materials for ghost gun products routinely emphasize that these products are sold without traceable serial numbers and are essentially unregulated.

AB 2156 would decrease the threshold to obtain a California manufacturer's license from 50 or more manufactured firearms to 4 or more firearms per calendar year to ensure that unlicensed gun makers in California no longer circumvent state and federal gun laws by building their own firearms with parts sold through significantly less regulated, unlicensed channels.

The process for obtaining a firearm manufacturer's license from the California DOJ is comprehensive and requires applicants to perform a variety of tasks upholding public safety. Some requirements include: conducting manufacturing operations only on sites that meet specified security standards to prevent firearm thefts; ensuring that all firearms and firearms products and parts produced by the manufacturer are stamped with a unique serial number to aid in investigation of gun crimes and trafficking; ensuring that all employees who handle firearms pass annual background checks; notifying local law

enforcement that the manufacturer will be manufacturing firearms in a designated location and allowing routine inspections to ensure the licensee operates legally; and, retaining manufacturing records identifying all firearms, frames, and unfinished frames they manufacture.

Simply put, we believe that California law should generally require people and businesses who manufacture guns to obtain a manufacturing license and comply with California's manufacturing laws. These 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 standard business practices. Individuals or corporations who wrongfully fail to obtain a federal manufacturer's license should not be exempt from California's firearm manufacturing laws, and AB 2156 (Wicks) would ensure they do.

**ARGUMENTS IN OPPOSITION:** The California Sportsman's Lobby, Inc. opposes this bill stating it is largely redundant of existing law and:

Firearm precursor parts, including any made using a 3D printer, can only be sold or transferred by or through a licensed firearms dealer or precursor parts vendor, and only after approval by the Department of Justice. Thus, an individual can lawfully make such a part just for their own personal use. If they are prohibited by law from possessing a firearm, they cannot legally make or possess a precursor part, either.

Under existing law, Penal Code Section 17360 already would, by definition, prohibit the manufacture of a firearm by an individual using a 3D printer as such individuals are not licensed importers or licensed manufacturers, and they are not making an item that was originally designed by a licensed manufacturer to be a firearm. Neither are they paying the required federal tax nor do they possess an exemption from paying the tax. The manufacture or possession of such firearms is prohibited by Penal Code Section 33600.

Furthermore, firearm frames and receivers are already treated as being firearms themselves. Thus, the bill is redundant in this regard. In its bill digest, the Legislative Counsel seems to recognize this fact by referencing only firearms and not separately mentioning frames and receivers.

By drastically reducing the number of firearms a hunter, hobbyist, recreational or competition shooter, or other lawful individual can make without having to get a state manufacturers license, the bill would greatly impede and infringe

upon the ability of lawful individuals to engage in a lawful activity from which they derive much enjoyment and recreational activity.

Unlawful individuals, whom the bill appears to be focused on, would not comply with the provisions of AB 2156 just as they do not comply with other provisions of law.

The bill would only affect lawful individuals who are not a part of the crime problem. It would have no significant impact on preventing illegal activities.

ASSEMBLY FLOOR: 54-16, 5/25/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Salas, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Berman, Choi, Cooper, Gray, Mayes, Nguyen, O'Donnell, Valladares

Prepared by: Mary Kennedy / PUB. S. /  
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\*\*\*\* END \*\*\*\*