

117TH CONGRESS
1ST SESSION

H. R. 3088

To amend chapter 44 of title 18, United States Code, to ensure that all firearms are traceable, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2021

Mr. CICILLINE (for himself, Ms. LEE of California, Ms. SCANLON, Mr. TRONE, Ms. TITUS, Mrs. CAROLYN B. MALONEY of New York, Mr. COOPER, Mr. JOHNSON of Georgia, Ms. KELLY of Illinois, Ms. MENG, Mr. BEYER, Mr. BLUMENAUER, Ms. VELÁZQUEZ, Mr. DESAULNIER, Mr. AUCHINCLOSS, Mr. PETERS, Mrs. WATSON COLEMAN, Mrs. DEMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. RASKIN, Mr. CONNOLLY, Ms. PORTER, Mr. CARSON, Ms. BROWNLEY, Ms. LOIS FRANKEL of Florida, Mr. SCHIFF, Ms. WASSERMAN SCHULTZ, Ms. DEAN, Mr. RUPPERSBERGER, Mr. KIM of New Jersey, Mr. DEUTCH, Mr. JONES, Ms. GARCIA of Texas, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. TAKANO, Mr. EVANS, Ms. NORTON, Mr. NEGUSE, Mr. SWALWELL, Mrs. HAYES, Mr. TORRES of New York, Mr. SUOZZI, Ms. MOORE of Wisconsin, Ms. SCHAKOWSKY, Mr. BROWN, Mr. MOULTON, Mr. VARGAS, Ms. JACOBS of California, Mr. LIEU, Ms. BARRAGÁN, Mr. HIMES, Ms. WILSON of Florida, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18, United States Code, to ensure that all firearms are traceable, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Untraceable Firearms
3 Act of 2021”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) without the enactment of this Act, the Bu-
7 reau of Alcohol, Tobacco, Firearms and Explosives
8 has the authority to regulate ghost guns (as defined
9 in section 921(a) of title 18, United States Code, as
10 amended by section 3 of this Act) and unfinished
11 frames and receivers; and

12 (2) the purpose of this Act is to clarify and
13 strengthen such authority.

14 **SEC. 3. REQUIREMENT THAT ALL FIREARMS BE TRACE-**
15 **ABLE.**

16 (a) DEFINITIONS.—Section 921(a) of title 18, United
17 States Code, is amended—

18 (1) in paragraph (10), by adding at the end the
19 following: “The term ‘manufacturing firearms’ shall
20 include assembling a functional firearm or molding,
21 machining, or 3D printing a frame or receiver, and
22 shall not include making or fitting special barrels,
23 stocks, or trigger mechanisms to firearms.”;

24 (2) by inserting after paragraph (29) the fol-
25 lowing:

26 “(30)(A) The term ‘frame or receiver’—

1 “(i) means a part of a weapon that provides or
2 is intended to provide the housing or structure to
3 hold or integrate 1 or more fire control components,
4 even if pins or other attachments are required to
5 connect those components to the housing or struc-
6 ture;

7 “(ii) includes a frame or receiver, blank, cast-
8 ing, or machined body, that requires modification,
9 including machining, drilling, filing or molding, to be
10 used as part of a functional firearm, and which is
11 designed and intended to be used in the assembly of
12 a functional firearm, unless the piece of material has
13 had—

14 “(I) its size or external shape altered solely
15 to facilitate transportation or storage; or

16 “(II) solely its chemical composition al-
17 tered.

18 “(B) For purposes of subparagraph (A)(i), if a weap-
19 on with more than 1 part that provides the housing or
20 a structure designed to hold or integrate 1 or more fire
21 control or essential components, each such part shall be
22 considered a frame or receiver, unless the Attorney Gen-
23 eral has provided otherwise by regulation with respect to
24 the specific make and model of weapon on or before Janu-
25 ary 1, 2022.”; and

1 (3) by adding at the end the following:

2 “(36) The term ‘ghost gun’—

3 “(A) means a firearm, including a frame or re-
4 ceiver, that lacks a unique serial number engraved
5 or cast on the frame or receiver by a licensed manu-
6 facturer or importer in accordance with this chapter;
7 and

8 “(B) does not include—

9 “(i) a firearm that has been rendered per-
10 manently inoperable;

11 “(ii) a firearm identified by means of a
12 unique serial number assigned by a State agen-
13 cy and engraved or cast on the receiver or
14 frame of the weapon before the effective date of
15 the Untraceable Firearms Act of 2021 in ac-
16 cordance with a State law;

17 “(iii) a firearm manufactured or imported
18 before December 16, 1968; or

19 “(iv) a firearm identified as provided for
20 under section 5842 of the Internal Revenue
21 Code of 1986.

22 “(37) The term ‘fire control component’—

23 “(A) means a component necessary for the fire-
24 arm to initiate or complete the firing sequence; and

1 “(B) includes a hammer, bolt or breechblock,
2 cylinder, trigger mechanism, firing pin, striker, and
3 slide rails.”.

4 (b) PROHIBITION; REQUIREMENTS.—Section 922 of
5 title 18, United States Code, is amended by adding at the
6 end the following:

7 “(aa)(1) The Congress finds and declares the fol-
8 lowing:

9 “(A) Firearms tracing is the systematic track-
10 ing of the movement of a firearm recovered by law
11 enforcement officials from the first sale of a firearm
12 by the manufacturer or importer through the dis-
13 tribution chain (including the wholesaler and re-
14 tailer) to the first retail purchaser.

15 “(B) Law enforcement agencies across the
16 country work with the Bureau of Alcohol, Tobacco,
17 Firearms and Explosives to trace firearms and
18 thereby obtain investigative leads in the fight
19 against violent crime and terrorism.

20 “(C) The ability of law enforcement agencies to
21 trace a firearm is dependent on the serial number or
22 other marks on the firearm that identify the manu-
23 facturer or importer who manufactured or imported
24 the firearm and that are unique to the firearm.

1 “(D) Interstate gun trafficking interferes with
2 lawful commerce in firearms and significantly con-
3 tributes to gun crime. Of the 254,700 firearms
4 traced by the Bureau of Alcohol, Tobacco, Firearms
5 and Explosives in 2018, 71,910 of those firearms
6 were originally sold by a licensed firearms dealer in
7 a State other than the State where the firearms
8 were recovered. These guns made up 28.2 percent of
9 all firearm recoveries in 2018.

10 “(E) Even before the sale of a firearm, the gun,
11 its component parts, and the raw materials from
12 which they are made have considerably moved in
13 interstate commerce.

14 “(F) If unserialized and untraceable firearms
15 may be constructed and transported freely from
16 State to State, ordinary citizens and foreign visitors
17 may fear to travel to or through certain parts of the
18 country due to concern about violent crime and gun
19 violence, and law enforcement agencies may be un-
20 able to address it.

21 “(2)(A) Except as provided in subparagraph (B), it
22 shall be unlawful for any person to manufacture, sell, offer
23 to sell, transfer, purchase, or receive a ghost gun in or
24 affecting interstate or foreign commerce.

25 “(B) Subparagraph (A) shall not apply to—

1 “(i) the manufacture of a firearm by a licensed
2 manufacturer if the licensed manufacturer complies
3 with section 923(i) before selling or transferring the
4 firearm to another person;

5 “(ii) the offer to sell, sale, or transfer of a fire-
6 arm to, or purchase or receipt of a firearm by, a li-
7 censed manufacturer or importer before the date
8 that is 30 months after the date of enactment of the
9 Untraceable Firearms Act of 2021; or

10 “(iii) transactions between licensed manufactur-
11 ers and importers on any date.

12 “(3) It shall be unlawful for a person other than a
13 licensed manufacturer or importer to engrave or cast a
14 serial number on a firearm in or affecting interstate or
15 foreign commerce unless specifically authorized by the At-
16 torney General.

17 “(4) Beginning on the date that is 30 months after
18 the date of enactment of the Untraceable Firearms Act
19 of 2021, it shall be unlawful for any person other than
20 a licensed manufacturer or importer to knowingly possess
21 a ghost gun in or affecting interstate or foreign commerce.

22 “(5) Beginning on the date that is 30 months after
23 the date of enactment of the Untraceable Firearms Act
24 of 2021, it shall be unlawful for any person other than
25 a licensed manufacturer or importer to possess a ghost

1 gun in or affecting interstate or foreign commerce with
2 the intent to sell or transfer the ghost gun with or without
3 further manufacturing or to manufacture a firearm with
4 the ghost gun.

5 “(6)(A) It shall be unlawful for any person to sell,
6 offer to sell, or transfer, in or affecting interstate or for-
7 eign commerce, to any person other than a licensed manu-
8 facturer a machine that has the sole or primary function
9 of manufacturing firearms.

10 “(B) Except as provided in subparagraph (A), begin-
11 ning on the date that is 180 days after the date of enact-
12 ment of the Untraceable Firearms Act of 2021, it shall
13 be unlawful for any person other than a licensed manufac-
14 turer to possess, purchase, or receive, in or affecting inter-
15 state or foreign commerce, a machine that has the sole
16 or primary function of manufacturing firearms.

17 “(C) Subparagraph (B) shall not apply to a person
18 who is engaged in the business of selling manufacturing
19 equipment to a licensed manufacturer who possesses a ma-
20 chine with the intent to sell or transfer the machine to
21 a licensed manufacturer.”.

22 (c) REQUIREMENTS.—

23 (1) REMOVAL OF SERIAL NUMBERS.—Section
24 922(k) of title 18, United States Code, is amend-
25 ed—

1 (A) by striking “importer’s or manufactur-
2 er’s” each place it appears; and

3 (B) by inserting “authorized by this chap-
4 ter or under State law” before “removed”.

5 (2) LICENSED IMPORTERS AND MANUFACTUR-
6 ERS.—Section 923(i) of title 18, United States
7 Code, is amended—

8 (A) by inserting “(1)” before “Licensed”;
9 and

10 (B) by adding at the end the following:
11 “The serial number shall be engraved or cast
12 on the frame or receiver in a manner sufficient
13 to identify the firearm and the manufacturer or
14 importer that put the serial number on the fire-
15 arm.

16 “(2)(A) Not later than 180 days after the date of
17 enactment of the Untraceable Firearms Act of 2021, the
18 Attorney General shall prescribe regulations for engraving
19 a unique serial number onto a ghost gun.

20 “(B) The regulations prescribed under subparagraph
21 (A) shall—

22 “(i) allow an owner of a firearm described in
23 subparagraph (A) to have a unique serial number
24 engraved on the firearm by a licensed manufacturer
25 or importer; and

1 “(ii) require that a serial number be engraved
2 on the frame or receiver in a manner sufficient to
3 identify the firearm and the manufacturer or im-
4 porter that put the serial number on the firearm.

5 “(C) The regulations authorized under this para-
6 graph shall expire on the date that is 30 months after
7 the date of enactment of the Untraceable Firearms Act
8 of 2021.”.

9 (d) PENALTIES.—Section 924 of title 18, United
10 States Code, is amended—

11 (1) in subsection (a)(1)(B), by striking “or (q)”
12 and inserting “(q), (aa)(2), (aa)(3), (aa)(5), or
13 (aa)(6)”;

14 (2) in subsection (c)

15 (A) in paragraph (1)—

16 (i) in subparagraph (A), in the matter
17 preceding clause (i), by inserting “func-
18 tional” before “firearm” each place it ap-
19 pears;

20 (ii) in subparagraph (B), in the mat-
21 ter preceding clause (i), by inserting “func-
22 tional” before “firearm”; and

23 (iii) in subparagraph (D)(ii), by in-
24 serting “functional” before “firearm”; and

1 (B) in paragraph (4), by striking “all or
2 part of the firearm” and all that follows
3 through “person.” and inserting the following:
4 “all or part of the functional firearm, or other-
5 wise make the presence of the functional fire-
6 arm known to another person, in order to in-
7 timidate that person, regardless of whether the
8 functional firearm is directly visible to that per-
9 son.”;

10 (3) in subsection (d)(1), by striking “or (k)”
11 and inserting “(k), (aa)(2), (aa)(3), (aa)(5), or
12 (aa)(6)”;

13 (4) in subsection (e)(1), by inserting “through
14 the possession of a functional firearm” before “and
15 has three”; and

16 (5) by adding at the end the following:

17 “(q) A person who violates section 922(aa)(4) shall—

18 “(1) in the case of the first violation by the per-
19 son, be fined under this title, imprisoned not more
20 than 1 year, or both; or

21 “(2) in the case of any subsequent violation by
22 the person, be fined under this title, imprisoned not
23 more than 5 years, or both.”.

1 **SEC. 4. MODERNIZATION OF THE PROHIBITION ON UNDE-**
2 **TECTABLE FIREARMS.**

3 Section 922(p) of title 18, United States Code, is
4 amended—

5 (1) in paragraph (1)—

6 (A) in the matter preceding subparagraph
7 (A), by striking “any firearm”;

8 (B) by amending subparagraph (A) to read
9 as follows:

10 “(A) an undetectable firearm; or”; and

11 (C) in subparagraph (B), by striking “any
12 major component of which, when subjected to
13 inspection by the types of x-ray machines com-
14 monly used at airports, does not generate” and
15 inserting the following: “a major component of
16 a firearm which, if subjected to inspection by
17 the types of detection devices commonly used at
18 airports for security screening, would not gen-
19 erate”;

20 (2) in paragraph (2)—

21 (A) by amending subparagraph (A) to read
22 as follows:

23 “(A) the term ‘undetectable firearm’ means a
24 firearm, as defined in section 921(a)(3)(A), of which
25 no major component is wholly made of detectable
26 material;”;

1 (B) by striking subparagraph (B) and in-
2 serting the following:

3 “(B) the term ‘major component’, with respect
4 to a firearm—

5 “(i) means the slide or cylinder or the
6 frame or receiver of the firearm; and

7 “(ii) in the case of a rifle or shotgun, in-
8 cludes the barrel of the firearm; and”;

9 (C) by striking subparagraph (C) and all
10 that follows through the end of the undesig-
11 nated matter following subparagraph (C) and
12 inserting the following:

13 “(C) the term ‘detectable material’ means any
14 material that creates a magnetic field equivalent to
15 or more than 3.7 ounces of 17–4 pH stainless
16 steel.”;

17 (3) in paragraph (3)—

18 (A) in the first sentence, by inserting “, in-
19 cluding a prototype,” after “of a firearm”; and

20 (B) by striking the second sentence; and

21 (4) in paragraph (5), by striking “shall not
22 apply to any firearm which” and all that follows and
23 inserting the following: “shall not apply to—

24 “(A) any firearm received by, in the possession
25 of, or under the control of the United States; or

1 “(B) the manufacture, importation, possession,
2 transfer, receipt, shipment, or delivery of a firearm
3 by a licensed manufacturer or licensed importer pur-
4 suant to a contract with the United States.”.

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