
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 879 **Hearing Date:** June 25, 2019
Author: Gipson
Version: June 17, 2019
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Firearms*

HISTORY

Source: Author

Prior Legislation: AB 2382 (Gipson), 2018, held in Senate Appropriations
AB 857 (Cooper), Ch. 60, Stats. of 2016
AB 1673 (Gipson), 2015, vetoed

Support: Brady California United Against Gun Violence; California Department of Justice; Giffords Law Center; Los Angeles County Board of Supervisors; Los Angeles County District Attorney's Office; Women Against Gun Violence; Youth Alive

Opposition: California Rifle and Pistol Association; California Sportsman's Lobby; National Shooting Sports Foundation; Outdoor Sportsmen's Coalition of California; Safari Club International; Safari Club International Foundation

Assembly Floor Vote: 45 - 21

PURPOSE

This purpose of this bill is to require, commencing July 1, 2024, that the sale of firearms precursor parts be conducted through a licensed firearms precursor part vendor.

Existing law requires licensed importers and licensed manufacturers to identify each firearm imported or manufactured by using the serial number engraved or cast on the receiver or frame of the weapon, in such manner as prescribed by the Attorney General (AG). (18 U.S.C. § 923, subd. (i).)

Existing law specifies that the United States Undetectable Firearms Act of 1988 makes it illegal to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not as detectable by walk-through metal detection as a security exemplar containing 3.7 oz. of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. (18 U.S.C. § 922, subd. (p).)

Existing law prohibits a person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code from manufacturing firearms in California, unless the person, firm or corporation is also licensed under California law (Penal Code Section 29010). This prohibition does not apply to a person

licensed under federal law, who manufactures less than 100 firearms a calendar year. (Pen. Code, § 29010, subd. (b).)

Existing law makes it illegal to change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol, revolver, or any other firearm, without first having secured written permission from the Department of Justice (DOJ) to make that change, alteration, or removal. (Pen. Code, § 23900.)

Existing law allows the DOJ, upon request, to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification, or a distinguishing number or mark assigned by the department has been destroyed or obliterated. (Pen. Code, § 23910.)

Existing law makes it a misdemeanor, with limited enumerated exceptions, for any person to buy, receive, dispose of, sell, offer to sell or have possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer's number or other mark of identification changed, altered, removed, or obliterated. Pen. Code, §§ 23920 & 23925.)

Existing law requires a person be at least 18 years of age to purchase a rifle or shotgun. To purchase a handgun, a person must be at least 21 years of age. As part of the Dealer Record of Sale (DROS) process, the purchaser must present "clear evidence of identity and age" which is defined as a valid, non-expired California Driver's License or Identification Card issued by the Department of Motor Vehicles. (Pen. Code, § 26840.)

Existing law requires purchasers to present a handgun safety certificate prior to the submission of DROS information for a handgun or provide the dealer with proof of exemption pursuant to California Penal Code Section 31700. Beginning on January 1, 2015, this requirement will be extended to all firearms. (Pen. Code, §26840.)

Existing law requires that firearms dealers obtain certain identifying information from firearms purchasers and forward that information, via electronic transfer to the DOJ to perform a background check on the purchaser to determine whether he or she is prohibited from possessing a firearm. (Pen. Code, §§ 28160-28220.)

Existing law requires firearms to be centrally registered at the time of transfer or sale by way of transfer forms centrally compiled by the DOJ. The DOJ is required to keep a registry from data sent to the DOJ indicating who owns what firearm by make, model, and serial number and the date thereof. (Pen. Code, §11106, subds. (a) & (c).)

Existing law requires that, upon receipt of the purchaser's information, the DOJ shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Welfare and Institutions Code Section 8104, in order to determine if the purchaser is prohibited from purchasing a firearm because of a prior felony conviction or because they had previously purchased a handgun within the last 30 days, or because they had received inpatient treatment for a mental health disorder, as specified. (Pen. Code, §28220.)

Existing law allows the DOJ to require the dealer to charge each firearm purchaser a fee not to exceed \$14, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. This fee, known as the Dealer's Record of Sale Entry System (DROS or DROS fee),

shall be no more than is necessary to fund specific codified costs. (Pen. Code § 28225.)

Existing law provides the AG shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Pen. Code § 30000.)

This bill defines a "firearm precursor part" to mean a component of a firearm that is generally necessary to build or assemble a firearm.

This bill defines a "firearm precursor part vendor " to mean "any person, firm, corporation, dealer, or any other business that has a current ammunition vendor license, as specified."

This bill provides that commencing July 1, 2024, a licensed firearms dealer and a licensed ammunition vendor shall automatically be deemed a licensed firearm precursor parts vendor, if the dealer and licensed ammunition vendor comply with specified requirements.

This bill provides that a person prohibited from owning or possessing a firearm shall not own or possess, or have under his custody or control a firearm precursor part and a violation is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed \$1,000, or by both that fine and imprisonment

This bill states that commencing July 1, 2024, the sale of a firearm precursor part by any party shall be conducted or processed through a licensed firearm precursor party vendor.

This bill provides that commencing July 1, 2024, a valid firearm precursor part vendor license shall be required for any person, firm or corporation, or other business enterprise to sell more than one firearm precursor part in any 30-day period, except as exempted, and a violation is a misdemeanor.

This bill provides that commencing July 1, 2024, a firearm precursor part vendor shall not sell or otherwise transfer ownership of any firearm precursor part without, at the time of delivery, legibly recording specified information.

This bill states that commencing July 1, 2025, the vendor shall electronically submit to the Department of Justice (DOJ) firearm precursor part purchase information in a format and a manner prescribed by the department for all sales or other transfers of ammunition.

This bill states that commencing July 1, 2025, a firearm parts vendor shall verify with the DOJ, in a manner prescribed by the DOJ, that the person is authorized to purchase firearm precursor parts.

This bill states that commencing July 1, 2025, the DOJ shall electronically approve the purchase or transfer of firearm precursor parts through a vendor, except as otherwise specified. This approval shall occur at the time of purchase or transfer, prior to the purchaser or transferee taking possession of the firearm precursor parts.

This bill allows the DOJ shall recover the reasonable cost of regulatory and enforcement activities related to this article by charging firearms precursor parts purchasers and transferees a per-transaction fee not to exceed one dollar (\$1).

This bill authorizes the DOJ to issue firearms precursor parts vendor licenses, commencing July 1, 2024.

This bill allows the DOJ to charge firearm precursor parts vendor license applicants a reasonable fee sufficient to reimburse the DOJ for the reasonable estimated costs of administering the license program.

This bill provides that is not a firearm or the frame or receiver thereof, as specified.

COMMENTS

1. Need for This Bill

According to the author:

Under current law, an individual on the prohibited persons list, who would fail to pass a firearm background check, is legally authorized to purchase precursor parts, which they can then assemble into a functioning firearm at home. These home-assembled firearms do not have serial numbers, and as a result are untraceable to law enforcement. Thus, they are called “Ghost Guns.” Current law requires the individual to apply to the DOJ for serial numbers once they have assembled the weapon, effectively imposing an honor system. There is no enforcement mechanism that allows law enforcement to verify whether the individual who assembled the ghost gun has applied for said serial number. This bill would require a background check in order to buy precursor parts, so an individual on the prohibited persons list would not be able to assemble a ghost gun.

2. Governor’s Veto Message of AB 1673 (Gipson)

AB 1673 (Gipson), of the 2015-2016 Legislative Session, expanded the definition of “firearm” to include the frame or receiver of the weapon or a frame or receiver “blank,” “casting” or “machined body” that is designed and clearly identifiable as a component of a functional weapon. AB 1673 was vetoed by the Governor. The Governor in his veto message stated,

"I am returning AB 1673 without my signature. This bill seeks to stem tide of untraceable homemade firearms on our streets. While I appreciate the author's intent the actual wording of the unduly vague and could have far reaching unintended consequences. By defining certain metal parts as a firearm because they could ultimately be made into a homemade weapon, this bill could trigger potential application of myriad and serious criminal penalties. As far as potential application of myriad and serious penalties, the same could be said of this bill times ten."

3. Firearm Parts and Lower Receivers

There are no provisions in existing California law that prevent a person from buying an 80% lower receiver and then making it into a fully functional firearm. As discussed above, the governor vetoed previous legislation to expand the definition of a firearm to include these devices. According to Tactical Machining, “An 80% Receiver is a partially completed piece of material that requires special tooling and skills to be completed and considered a firearm.”¹

Because 80% lower receivers are not considered firearms, a person purchasing them does not have to go through a federal firearms dealer, and does not have to undergo a background check. Additionally, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) “firearms that began as receiver blanks have been recovered after shooting incidents, from gang members and from prohibited people after they have been used to commit crimes.”² “ATF successfully traces crime guns to the first retail purchaser in most instances. ATF starts with the manufacturer and goes through the entire chain of distribution to find who first bought the firearm from a licensed dealer. Because receiver blanks do not have markings or serial numbers, when firearms made from such receiver blanks are found at a crime scene, it is usually not possible to trace the firearm or determine its history, which hinders crime gun investigations jeopardizing public safety.”³

This bill takes a different approach to regulating these firearm components from AB 1673 by authorizing the DOJ to issue firearm precursor parts vendor licenses, and requiring any person purchasing firearm precursor parts to undergo a background check.

4. Santa Monica Shooting

On June 7, 2013, John Zawahri, 23, killed five people and injured several more during a shooting rampage that lasted approximately 13 minutes in Santa Monica, California. He first shot and killed his father, Samir Zawahri, and brother, Christopher, at their home. He then pulled over and carjacked Laurie Sisk, forcing her to drive at gunpoint to Santa Monica College. Zawahri shot at numerous cars, pedestrians, and a bus en route, killing the college’s groundskeeper, Carlos Franco, and his daughter, Marcela. Upon arriving at the campus, he then fatally shot another woman, Margarita Gomez. He then entered the school library, where he attempted to kill several library patrons who were hiding in a safe room. Police, who had been alerted to the shooting and to Zawahri’s location by numerous 911 calls, exchanged gunfire in the library with the shooter and pronounced him dead at the scene. According to authorities, Zawahri fired approximately 100 rounds in total.

Zawahri had a history of mental illness. In 2006, a teacher at his high school discovered Zawahri researching assault weapons online. School officials contacted the police and he was subsequently admitted to the psychiatric ward at the University of California, Los Angeles Medical Center. Zawahri attempted to buy a weapon in 2011, but a background check conducted by the California Department of Justice found him ineligible and denied the purchase. The reasons for this denial have not been publicly released.

¹ (<http://www.tacticalmachining.com/80-lower-receiver.html>.)

² (<https://www.atf.gov/firearms/qa/have-firearms-made-unmarked-receiver-blanks-been-recovered-after-being-used-crime>.)

³ (<https://www.atf.gov/firearms/qa/can-functioning-firearms-made-receiver-blanks-be-traced>.)

Zawahri used a modified AR-15 rifle in the shooting and also carried a .44-caliber handgun. He possessed more than 1,300 rounds of ammunition. The AR-15 rifle is the same type of gun used in the mass shootings that occurred in Aurora, Colorado, and Newtown, Connecticut. The AR-15 firearm held 30 rounds. California state law bans the sale of AR-15 rifles with a magazine capacity greater than ten rounds. Authorities believe that Zawahri assembled his AR-15 rifle using parts he bought in pieces from a number of different sources, including an 80% completed lower receiver. Police found a drill press at Zawahri's home, a tool that can make holes in the lower receiver to complete the weapon.

5. Rancho Tehama Reserve Shootings

In November of 2017, 44-year-old Kevin Janson Neal engaged in a shooting spree. Five people were killed and 18 others were injured at eight separate crime scenes, including an elementary school. At the time of the incident Neal was under a restraining order that required him to surrender all of his firearms. He manufactured the high powered "ghost gun" rifle used in the shootings, and he possessed several handguns in violation of the restraining order.

On November 13, 2017 Neal shot his wife and hid her body under some floorboards. The following day, Neal went on a shooting rampage. He began by killing two of his neighbors, a man and a woman. After the deaths of his neighbors he stole a pickup truck from one of the decedents. He then began firing randomly at vehicles and pedestrians, including a young mother and her three sons inside of a vehicle. He shot the mother five times, four near her heart.

At Rancho Tehama Elementary School gunshots were heard and the school was placed in a lockdown. Shortly thereafter, Neal crashed the pickup truck through the front gates of the school. He then exited the vehicle with a self-assembled AR-15 semi-automatic rifle and fired repeatedly at the windows and walls of the school. Several children were shot, and a one woman was shot when she attempted to distract Neal from the school. Nearly 100-rounds of ammunition were fired at the school.

Following the incident at the school Neal then randomly targeted several other motorists and pedestrians. He rammed another vehicle and fired at the two occupants as they fled. He killed the woman inside, and the man survived with shots to his legs after pleading for his life. He then shot a good samaritan who didn't know what was happening and actually stopped Neal to ask if he was okay. Neal stole his car, continued his shooting spree, and later killed another person before he engaged in extended heavy gunfire with officers. Eventually Neal killed himself with a firearm.

6. Manufacturing of Ghost Guns in California

The manufacturing and selling of illegal guns continues to be an issue in California:

Manufacturing and selling illegal guns -- including so-called "ghost guns" -- is the most common type of investigation the Sacramento Bureau of Alcohol Tobacco and Firearms deals with.

"Ghost guns" are missing a serial number and have been manufactured with parts likely bought online.

“In this office we find quite a few of them and we have made a number of cases over the last few years of people that are selling these firearms for profit, and I would expect that we continue to make those types of cases,” said ATF spokesman Graham Barlowe.

Last October, two brothers were indicted for illegally manufacturing and selling guns in Sacramento. Agents seized 345 guns as part of that investigation.

Daniel Crowninshield, who is also known as “Dr. Death,” was also indicted last year for manufacturing unlicensed firearms, using computer-controlled machines at a North Sacramento metal shop.

In Elk Grove, machinist Richard Gray usually restores cars at his shop, but said he has had people bring in parts claiming they need a broken gun fixed.

“But (I) then started realizing that wasn’t exactly what they were doing. What they were really doing was trying to create a gun that didn’t have any serial numbers on it,” Gray said.

Now, Gray said he won’t accept any type of firearm.

“We just tell them straight up that we’re not in that kind of business.”

He’s a supporter for stricter legislation on assembling guns, but thinks it’ll make illegal gun manufacturers more desperate.

“They’re gonna go someplace else. They’re gonna get the parts and bring them in here by hook or crook,” he said.

There are several websites dedicated to selling parts to build any firearm.

“We do have cases ongoing at this time, and as I said, I would expect that we’ll have cases, we’ll be opening cases in the months and year following until, really until there’s a change in the way that we see this problem,” Barlowe said.⁴

In 2016, the federal grand jury returned an indictment against Craig Mason, of Auburn, charging him with unlawful dealing and manufacturing firearms:

According to court documents, Mason and others involved in the scheme sold the parts necessary to assemble a firearm. Mason operated a workshop on his property that he used to manufacture firearms by converting AR-15-style blanks into lower receivers.

A “blank” is a metal casting that is not considered a firearm by ATF. It is converted into a “lower receiver” by using a drill press or automated machine to create the precise shape and space necessary for the lower receiver to accept the

⁴ Dana Griffin, *ATF: 'Ghost guns' a growing trend in Sacramento area*, August 6, 2015, <http://www.kcra.com/news/atf-ghost-guns-a-growing-trend-in-sacramento-area/34586452>.

parts that will allow the firing of a projectile. These parts (e.g., the hammer, bolt or breechlock, and firing mechanism) are the internal mechanical parts that combine with a trigger, firing pin, and other parts to form a functioning firearm. Once the blank is converted to a lower receiver, it is considered firearm by statute, even if there is no barrel, handle, or trigger, etc., and it is subject to regulation.

On April 23, 2013, Mason manufactured two AR-15-style lower receivers for an ATF confidential informant. Despite being told that the confidential informant had been to prison and therefore prohibited from possessing a firearm, Mason created the firearms and sold his services to the confidential informant.⁵

This bill attempts to curb the usage of ghost guns in California by persons who would not otherwise be permitted to carry a firearm by mandating that persons visit licensed dealers to purchase precursor parts and undergo a background check.

7. Argument in Support

According to the Attorney General of California:

There have been too many tragedies caused by prohibited persons in possession of a ghost gun. In 2017, a man in Tehama County killed his wife and four innocent people using high powered rifles he built himself. Another dozen individuals were wounded, and an elementary school was left littered with bullet holes. This man was prohibited from owning firearms to a restraining order and had even turned in to law enforcement his legally purchased weapons. Similarly, a Sacramento area man in 2013 who was prohibited due to multiple convictions for domestic violence, built homemade firearms using precursor parts but for more than just his own personal use. The U.S. Department of Justice's Bureau of Alcohol, Tobacco, and Firearms found in the man's possession hundreds of thousands of dollars' worth of machinery that was used to mass produce weapons in as little as 20 minutes' time. His customers were individuals purchasing firearms without background checks, waiting periods or any records of sale.

Building these kinds of untraceable weapons doesn't require a great deal of skill or expensive machinery. Ghost guns are becoming more appealing because of how straightforward the process of building one can be with the right tools, parts, and instructional videos. California is a hot spot for ghost guns. According to the owner of GhostGunner.net; a website that sells gun components as well as a milling machine for at-home gunsmithing, California is its biggest market. AB 879 would address the ease with which prohibited persons are able to acquire the parts necessary to build untraceable firearms. It would require background checks if and when a person attempts to purchase a precursor part. It would additionally limit the sales to those licensed gun dealers or DOJ licensed vendors.

⁵ <https://www.atf.gov/news/pr/auburn-man-indicted-illegally-manufacturing-firearms>.

8. Argument in Opposition

According to the California Rifle and Pistol Association:

AB 879 requires firearm ‘precursor’ parts to be treated in the same manner as if they were actual firearms, having to be sold only through a dealer and with a mandated background check. This legislation specifically addresses parts that could be used to repair an existing firearm, or used to assemble one. Parts include such items as unfinished receivers, unfinished handgun frames, and certain trigger assemblies. In and of themselves, these parts do not constitute a firearm and therefore should not be treated as such.

The mandated part-tracking requirements of AB 879 opens the door for government cross referencing of items purchased with what firearms might be registered in an individual’s name. This alone is problematic as it could unwittingly make any legitimate and lawful gun owner into a criminal. The CRPA will continue to support commonsense gun laws focused on violent criminals who choose to use firearms to break the law. However, this bill will not do that, instead only complicates the ability of law abiding citizens to obtain parts needed to repair and upgrade lawfully obtained firearms.

The bill doesn’t consider the practicality nor the enormity of the task which would be required of the Department of Justice. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks and waiting periods, plus similar procedures now for ammunition purchases and purchasers. Should AB 879 pass, the Department would thus be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts.

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