

116TH CONGRESS
2D SESSION

S. 3743

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

IN THE SENATE OF THE UNITED STATES

MAY 14, 2020

Mr. BLUMENTHAL (for himself, Mr. CASEY, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MENENDEZ, Mr. MURPHY, Mr. REED, Mr. SCHUMER, Mr. VAN HOLLEN, Ms. WARREN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Untraceable Firearms
5 Act of 2020”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

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

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

9 **SEC. 3. REQUIREMENT THAT ALL FIREARMS BE TRACE-**
 10 **ABLE.**

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

13 (1) in paragraph (3), by striking “or (D) any
 14 destructive device” and inserting “; (D) any destruc-
 15 tive device; or (E) any combination of parts designed
 16 or intended for use in converting any device into a
 17 firearm and from which a firearm may be readily as-
 18 sembled”;

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

1 (3) by inserting after paragraph (29) the fol-
2 lowing:

3 “(30) The term ‘frame or receiver’—

4 “(A) means the part of a firearm that provides
5 or is intended to provide the housing for the trigger
6 group, regardless of the stage of manufacture;

7 “(B) includes a frame or lower receiver, includ-
8 ing blank, casting, or machined body, that requires
9 modification, including machining, drilling, filing or
10 molding, to be used as part of a functional firearm,
11 and which is designed and intended to be used in the
12 assembly of a functional firearm; and

13 “(C) does not include a piece of material that
14 has had—

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

17 “(ii) solely its chemical composition al-
18 tered.”; and

19 (4) by adding at the end the following:

20 “(36) The term ‘ghost gun’—

21 “(A) means a firearm, including a frame or re-
22 ceiver, that lacks a unique serial number engraved
23 or cast on the frame or receiver by a licensed manu-
24 facturer or importer in accordance with this chapter;
25 and

1 “(B) does not include a firearm that has been
2 rendered permanently inoperable.”.

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

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

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

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

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

24 “(D) Interstate gun trafficking interferes with
25 lawful commerce in firearms and significantly con-

1 tributes to gun crime. Of the 254,700 firearms
2 traced by the Bureau of Alcohol, Tobacco, Firearms
3 and Explosives in 2018, 71,910 of those firearms
4 were originally sold by a licensed firearms dealer in
5 a State other than the State where the firearms
6 were recovered. These guns made up 28.2 percent of
7 all firearm recoveries in 2018.

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

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

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

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

24 “(i) the manufacture of a firearm by a licensed
25 manufacturer if the licensed manufacturer complies

1 with section 923(i) before selling or transferring the
2 firearm to another person;

3 “(ii) the offer to sell, sale, or transfer of a fire-
4 arm to, or purchase or receipt of a firearm by, a li-
5 censed manufacturer or importer before January 1,
6 2022; or

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

9 “(bb) It shall be unlawful for a person other than
10 a licensed manufacturer or importer to engrave or cast
11 a serial number on a firearm in or affecting interstate or
12 foreign commerce.

13 “(cc) Beginning on January 1, 2022, it shall be un-
14 lawful for any person other than a licensed manufacturer
15 or importer to possess a ghost gun in or affecting inter-
16 state or foreign commerce.

17 “(dd) Beginning on January 1, 2022, it shall be un-
18 lawful for any person other than a licensed manufacturer
19 or importer to possess a ghost gun in or affecting inter-
20 state or foreign commerce with the intent to sell or trans-
21 fer the ghost gun with or without further manufacturing
22 or to manufacture a firearm with the ghost gun.

23 “(ee)(1) It shall be unlawful for any person to sell,
24 offer to sell, or transfer, in or affecting interstate or for-
25 eign commerce, to any person other than a licensed manu-

1 facturer a machine that has the sole or primary function
2 of manufacturing firearms.

3 “(2) Except as provided in paragraph (3), beginning
4 on January 1, 2022, it shall be unlawful for any person
5 other than a licensed manufacturer to possess, purchase,
6 or receive, in or affecting interstate or foreign commerce,
7 a machine that has the sole or primary function of manu-
8 facturing firearms.

9 “(3) Paragraph (2) shall not apply to a person who
10 is engaged in the business of selling manufacturing equip-
11 ment to a licensed manufacturer who possesses a machine
12 with the intent to sell or transfer the machine to a licensed
13 manufacturer.”.

14 (c) REQUIREMENTS.—Section 923(i) of title 18,
15 United States Code, is amended by adding at the end the
16 following: “The serial number shall be engraved or cast
17 on the frame or receiver in a manner sufficient to identify
18 the firearm and the manufacturer or importer that put
19 the serial number on the firearm.”.

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

22 (1) in subsection (a)(1)(B), by striking “or (q)”
23 and inserting “(q), (aa), (bb), (cc), (dd), or (ee)”;
24 and

1 (2) in subsection (d)(1), by striking “or (k)”
 2 and inserting “(k), (aa), (bb), (cc), (dd), or (ee)”.

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

5 Section 922(p) of title 18, United States Code, is
 6 amended—

7 (1) in paragraph (1)—

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

10 (B) by amending subparagraph (A) to read
 11 as follows:

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

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

22 (2) in paragraph (2)—

23 (A) by amending subparagraph (A) to read
 24 as follows:

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

5 (B) by striking subparagraph (B) and in-
 6 serting the following:

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

9 “(i) means the slide or cylinder or the
 10 frame or receiver of the firearm; and

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

13 (C) by striking subparagraph (C) and all
 14 that follows through the end of the undesig-
 15 nated matter following subparagraph (C) and
 16 inserting the following:

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

21 (3) in paragraph (3)—

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

24 (B) by striking the second sentence; and

1 (4) in paragraph (5), by striking “shall not
2 apply to any firearm which” and all that follows and
3 inserting the following: “shall not apply to—
4 “(A) any firearm received by, in the possession
5 of, or under the control of the United States; or
6 “(B) the manufacture, importation, possession,
7 transfer, receipt, shipment, or delivery of a firearm
8 by a licensed manufacturer or licensed importer pur-
9 suant to a contract with the United States.”.

○