

SENATE No. 1496

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to ghost guns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>Norfolk and Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/27/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>3/27/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>5/22/2023</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>5/26/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>6/9/2023</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>9/21/2023</i>

SENATE No. 1496

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1496) of Cynthia Stone Creem for legislation relative to ghost guns. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to ghost guns.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 121 of chapter 140 of the General laws is hereby amended by
2 inserting the following new definitions:

3 “Federal licensee authorized to serialize firearms” means a person, firm, corporation, or
4 other entity that holds any valid federal license that authorizes the person, firm, corporation, or
5 other entity to imprint serial numbers onto firearms, rifles, shotguns, and completed or
6 unfinished frames or receivers pursuant to Chapter 44 (commencing with Section 921) of Title
7 18 of the United States Code and regulations issued pursuant thereto.

8 “Federally licensed gunsmith, manufacturer, or importer” means a person, firm,
9 corporation, or other entity that holds a valid gunsmith license, or license to manufacture or
10 import firearms, rifles, and shotguns, issued pursuant to Chapter 44 (commencing with Section
11 921) of Title 18 of the United States Code and regulations issued pursuant thereto.

12 “Frame” means the part of a firearm, as defined in this section, or variant of a firearm,
13 that provides housing or a structure for the primary energized component designed to hold back
14 the hammer, striker, bolt, or similar element, prior to initiation of the firing sequence, even if
15 pins or other attachments are required to attach the component to the housing or structure. Any
16 such part that is identified with an importer's or manufacturer's serial number shall be presumed,
17 absent an official determination by the Bureau of Alcohol, Tobacco, Firearms and Explosives or
18 other reliable evidence to the contrary, to be the frame of the weapon.

19 “License to manufacture firearms” means a valid license to manufacture firearms, rifles,
20 and shotguns issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
21 United States Code and regulations issued pursuant thereto.

22 “Manufacture or assemble” means to fabricate, construct, fit together component parts of,
23 or otherwise produce, a firearm, rifle, shotgun, or completed or unfinished frame or receiver,
24 including through additive, subtractive, or other processes.

25 “Receiver” means the part of a rifle or shotgun, or variants thereof, that provides housing
26 or a structure for the primary component designed to block or seal the breech prior to initiation
27 of the firing sequence, even if pins or other attachments are required to connect the component to
28 the housing or structure. Any such part that is identified with an importer's or manufacturer's
29 serial number shall be presumed, absent an official determination by the Bureau of Alcohol,
30 Tobacco, Firearms and Explosives or other reliable evidence to the contrary, to be the receiver of
31 the weapon.

32 “Security exemplar” has the meaning given that term in 18 U.S.C. 922.

33 “Undetectable firearm, rifle, or shotgun” means a firearm, rifle, or shotgun manufactured,
34 assembled, or otherwise comprised entirely of nonmetal substances, if one of the following is
35 true: (i) After removal of grips, stocks and magazines, the firearm, rifle, or shotgun is not
36 detectable as a security exemplar by a walk-through metal detector calibrated to detect the
37 security exemplar; or (ii) The firearm, rifle, or shotgun includes a major component that, if
38 subjected to inspection by the types of X-ray machines commonly used at airports, would not
39 generate an image that accurately depicts the shape of the component. The term “major
40 component” has the same meaning given that term in 18 U.S.C. 922.

41 “Unfinished frame or receiver” means a forging, casting, printing, extrusion, machined
42 body or similar item that:

43 (i) Is designed to or may readily be completed, assembled, or otherwise converted to
44 function as a frame or receiver; or

45 (ii) Is marketed or sold to the public to become or be used as the frame or receiver of a
46 functional firearm, rifle, or shotgun once completed, assembled, or otherwise converted.

47 However, “unfinished frame or receiver” does not include a component designed and
48 intended for use in an antique weapon.

49 “Valid serial number” means a serial number that has been imprinted by a federal
50 licensee authorized to serialize firearms in accordance with federal law, or that has otherwise
51 been assigned to a firearm, rifle, shotgun, or completed or unfinished frame or receiver pursuant
52 to the laws of any state or pursuant to Chapter 53 of Title 26 of the United States Code and the
53 regulations issued pursuant thereto.

54 SECTION 2. Section 121 of chapter 140 of the General laws is hereby further amended
55 by striking the definition of firearm and inserting in place thereof the following:-

56 “Firearm”, a stun gun or a pistol, revolver or other weapon of any description, loaded or
57 unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or
58 barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured.

59 SECTION 3. Section 121 of chapter 140 of the General laws is hereby further amended
60 by inserting the following new paragraph after the words “‘Weapon’, any rifle, shotgun or
61 firearm.”:-

62 As used in sections 122 to 129D, inclusive, and in sections 131A and 131E, the term
63 “firearm” includes the completed or unfinished frame of such a weapon, and the terms “rifle”
64 and “shotgun” include the completed or unfinished receiver of such a weapon.

65 SECTION 4. Chapter 140 is hereby amended by inserting after section 121A a new
66 section 121B, as follows:-

67 Section 121B. Unserialized and Undetectable Ghost Guns.

68 (a) It is unlawful to knowingly manufacture or assemble, cause to be manufactured or
69 assembled, import, purchase, sell, offer for sale, or transfer ownership of any firearm, rifle, or
70 shotgun that is not imprinted with a valid serial number. A violation of this subsection is
71 punishable, for a first offense, by up to 12 months imprisonment, or a fine of up to \$5,000 per
72 weapon in violation, or by both such fine and imprisonment. A second or subsequent offense is
73 punishable by up to four years imprisonment, or a fine of up to \$15,000 per weapon in violation,
74 or by both such fine and imprisonment.

75 (b) It is unlawful to knowingly import, purchase, sell, offer for sale, or transfer ownership
76 of any completed or unfinished frame or receiver, unless the completed or unfinished frame or
77 receiver:

78 (1) Is deemed to be a firearm pursuant to Chapter 44 (commencing with Section 921) of
79 Title 18 of the United States Code and regulations issued pursuant thereto; and

80 (2) Is imprinted with a valid serial number.

81 A violation of this subsection is punishable by up to 12 months imprisonment, or a fine of
82 up to \$5,000 per completed or unfinished frame or receiver in violation, or by both such fine and
83 imprisonment.

84 (c) Commencing July 1, 2024, it is unlawful to knowingly possess a firearm, rifle,
85 shotgun, or any completed or unfinished frame or receiver that is not imprinted with a valid
86 serial number. A violation of this subsection is punishable, for a first offense, by a fine of up to
87 \$500 per weapon in violation. A second or subsequent offense is punishable by up to 12 months
88 imprisonment, or a fine of up to \$5,000 per weapon in violation, or by both such fine and
89 imprisonment.

90 (d) This section does not apply to any of the following:

91 (1) A firearm, rifle, shotgun, or any completed or unfinished frame or receiver, that is an
92 antique as defined in Section 479.11 of Title 27 of the Code of Federal Regulations, or that has
93 been rendered permanently inoperable.

94 (2) The sale, offer for sale, or transfer of ownership of a firearm, rifle, shotgun, or any
95 completed or unfinished frame or receiver, to a law enforcement agency.

96 (3) The manufacture or assembly, importation, purchase, transfer, or possession of a
97 firearm, rifle, shotgun, or any completed or unfinished frame or receiver, by a law enforcement
98 agency for law enforcement purposes.

99 (4) The sale or transfer of ownership of a firearm, rifle, shotgun, or any completed or
100 unfinished frame or receiver, to a federally licensed gunsmith, manufacturer, or importer, or to
101 any other federal licensee authorized to serialize firearms.

102 (5) The manufacture or assembly, importation, purchase, or possession of a firearm, rifle,
103 shotgun, or any completed or unfinished frame or receiver, by a federally licensed gunsmith,
104 manufacturer, or importer, or by any other federal licensee authorized to serialize firearms.

105 (6) A member of the Armed Forces of the United States or the National Guard, while on
106 duty and acting within the scope and course of employment, or any law enforcement agency or
107 forensic laboratory.

108 (7) A common carrier, motor carrier, air carrier, or carrier affiliated with an air carrier
109 through common controlling interest that is subject to Title 49 of the United States Code, or an
110 authorized agent of any such carrier, when acting in the course and scope of duties incident to the
111 receipt, processing, transportation, or delivery of property.

112 (8) An authorized representative of a local, state, or federal government that receives a
113 firearm, rifle, shotgun, or any completed or unfinished frame or receiver, as part of an
114 authorized, voluntary buyback program in which the governmental entity is buying or receiving
115 such weapons from private individuals.

116 (9) The possession and disposition of a firearm, rifle, shotgun, or any completed or
117 unfinished frame or receiver by a person who meets all of the following:

118 (A) The person is not prohibited by Massachusetts or federal law from possessing the
119 weapon.

120 (B) The person possessed the firearm, rifle, shotgun, or any completed or unfinished
121 frame or receiver no longer than was necessary to deliver it to a law enforcement agency for that
122 agency's disposition according to law.

123 (C) If the person is transporting the firearm, rifle, shotgun, or any completed or
124 unfinished frame or receiver, the person is transporting it to a law enforcement agency in order to
125 deliver it to the agency for the agency's disposition according to law.

126 (10) The possession or importation of a firearm, rifle, shotgun, or any completed or
127 unfinished frame or receiver by a nonresident of the commonwealth who:

128 (A) Is traveling with the firearm, rifle, shotgun, or completed or unfinished frame or
129 receiver in the commonwealth in accordance with the provisions of Section 926A of Title 18 of
130 the United States Code; or

131 (B) Who possesses or imports the firearm, rifle, shotgun, or completed or unfinished
132 frame or receiver in the commonwealth exclusively for use in an organized sport shooting event
133 or competition, and no longer than reasonably necessary to participate in such an event or
134 competition.

135 (11) The possession or importation of a firearm, rifle, shotgun, or any completed or
136 unfinished frame or receiver by a new resident moving into the commonwealth who, within 90

137 days of moving into the commonwealth, causes the firearm, rifle, shotgun, or completed or
138 unfinished frame or receiver to be imprinted with a valid serial number, removes the weapon
139 from the commonwealth, or otherwise comes into compliance with this section.

140 SECTION 5. Chapter 140 is hereby amended by inserting the following new section
141 121C:-

142 Section 121C. Manufacture of Guns Without a Valid Federal License.

143 121C. (a) It is unlawful to knowingly manufacture or assemble more than one firearm,
144 rifle, shotgun, or completed or unfinished frame or receiver within the commonwealth in a
145 calendar year without a valid license to manufacture firearms.

146 (b) It shall be unlawful to use a three-dimensional printer or CNC milling machine to
147 manufacture or assemble any firearm, rifle, shotgun, or completed or unfinished frame or
148 receiver within the commonwealth without a valid license to manufacture firearms.

149 (c) (1) It is unlawful to sell, offer to sell, or transfer a three-dimensional printer or CNC
150 milling machine that has the primary or intended function of manufacturing or assembling
151 firearms, rifles, shotguns, or completed or unfinished frame or receivers, to any person in the
152 commonwealth who does not have a valid license to manufacture firearms.

153 (2) It is unlawful for any person in the commonwealth to purchase or receive a three-
154 dimensional printer or CNC milling machine that has the primary or intended function of
155 manufacturing or assembling firearms, rifles, shotguns, or completed or unfinished frame or
156 receivers, unless that person has a valid license to manufacture firearms.

157 (3) There shall be a presumption that a three-dimensional printer or CNC milling
158 machine has the primary or intended function of manufacturing or assembling firearms, rifles,
159 shotguns, or completed or unfinished frame or receivers, if the printer or machine is marketed or
160 sold in a manner that advertises that it may be used to manufacture or assemble firearms, rifles,
161 shotguns, or completed or unfinished frame or receivers, or in a manner that foreseeably
162 promotes the printer or machine's use in manufacturing or assembling such weapons, regardless
163 of whether the printer or machine is otherwise described or classified as having other functions
164 or as a general-purpose printer or machine.

165 (d) A person who manufactures or assembles a firearm, rifle, shotgun, or completed or
166 unfinished frame or receiver within the commonwealth and who does not have a valid license to
167 manufacture firearms, shall within 10 days after manufacturing or assembling the weapon, notify
168 the commissioner of the department of criminal justice information services in a form and
169 manner to be prescribed by the department, and provide any identifying information concerning
170 the weapon and the owner of such weapon requested by the commissioner, including but not
171 limited to the weapon's serial number.

172 (e) Except by operation of law, it is unlawful for a person who does not have a valid
173 license to manufacture or assemble firearms to sell or transfer ownership of a firearm, rifle, or
174 shotgun if:

175 (1) The person manufactured or assembled the firearm without a valid license to
176 manufacture firearms;

177 (2) The person knowingly caused the firearm to be manufactured or assembled by
178 another person who does not have a valid license to manufacture firearms; or

179 (3) The person is aware that the firearm was manufactured or assembled by another
180 person who does not have a valid license to manufacture firearms.

181 (f) (1) It is unlawful to knowingly allow, facilitate, aid, abet, or cause the manufacture or
182 assembling of a firearm, rifle, shotgun, or completed or unfinished frame or receiver, by a person
183 who is legally prohibited from possessing such a weapon under Massachusetts or federal law.

184 (2) It is unlawful to knowingly allow, facilitate, aid, abet, or cause the manufacture or
185 assembly of a machine gun, assault weapon, undetectable firearm, rifle, or shotgun, or of any
186 firearm, rifle, shotgun, or completed or unfinished frame or receiver that is not imprinted with a
187 valid serial number.

188 (g) This section does not apply to any member of the Armed Forces of the United States
189 or the National Guard, while on duty and acting within the scope and course of employment, or
190 any law enforcement agency or forensic laboratory, or to the transfer, relinquishment, or sale of a
191 firearm, rifle, or shotgun to a law enforcement agency.

192 (h) A violation of this section is punishable by up to 12 months imprisonment, or a fine of
193 up to \$5,000 per weapon in violation, or by both such fine and imprisonment.

194 SECTION 6. Chapter 140 is hereby amended by inserting the following new section
195 121D:-

196 121D. Distribution of Digital Firearm Manufacturing Code.

197 (a) As used in this section, “Digital firearm manufacturing code” means any digital
198 instructions in the form of computer-aided design files or other code or instructions stored and
199 displayed in electronic format as a digital model that may be used to program a CNC milling

200 machine, a three-dimensional printer, or a similar machine, to manufacture, assemble, or produce
201 a firearm, rifle, shotgun, or completed or unfinished frame or receiver.

202 (b) A person, firm, or corporation shall not, by any means, including the Internet,
203 knowingly distribute, or knowingly cause the distribution of, digital firearm manufacturing code
204 to any person in the commonwealth who does not have a valid license to manufacture firearms.

205 (c) In addition to any other applicable penalty or remedies authorized by any other statute
206 or cause of action, a person, firm, or corporation who violates this section may be held strictly
207 liable for personal injury or property damage inflicted by the use of any firearm, rifle, or
208 shotgun, that was manufactured, assembled, or produced in whole or in part using any digital
209 firearm manufacturing code that was distributed in violation of this section.

210 (d) This section does not apply to, or affect the distribution of digital firearm
211 manufacturing code to, any member of the Armed Forces of the United States or the National
212 Guard, while on duty and acting within the scope and course of employment, or any law
213 enforcement agency or forensic laboratory.

214 SECTION 7. Section 131N of Chapter 140 is hereby amended by striking said section
215 and inserting in place thereof the following:-

216 No person shall knowingly manufacture or assemble or cause to be manufactured or
217 assembled, import, sell, offer for sale, transfer or possess any weapon, capable of discharging a
218 bullet or shot, that is: (i) constructed in a shape that does not resemble a handgun, short-barreled
219 rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-
220 chains, pens, cigarette-lighters or cigarette-packages; or (ii) an undetectable firearm, rifle, or
221 shotgun as defined in section 121. Whoever violates the provisions of this section shall be

222 punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by
223 imprisonment for not more than ten years, or by both such fine and imprisonment, and for a
224 second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for
225 not more than 15 years, or by both such fine and imprisonment.

226 SECTION 8. Section 11A of Chapter 269 of the General Laws, as appearing in the 2020
227 Official Edition, is hereby amended by inserting in line 5 after the word “shotgun” the words “,
228 or a completed or unfinished frame or receiver” and by inserting in line 7 after the word
229 “manufacture” the words “, or by a licensee authorized to serialize firearms as defined in section
230 one hundred and twenty-one of chapter one hundred and forty, or that has otherwise been
231 assigned to a firearm pursuant to the laws of any state or pursuant to Chapter 53 of Title 26 of the
232 United States Code and the regulations issued pursuant thereto”.

233 SECTION 9. Section 11E of said Chapter 269 is hereby amended by striking in lines 1-2
234 the words “of new manufacture,” and by striking in lines 9-10 the words “newly manufactured”
235 and by striking in lines 10-11 the words “received directly from a manufacturer, wholesaler or
236 distributor”.

237 SECTION 10. The provisions of this act are severable. If any provision of this act or its
238 application is held invalid, that invalidity shall not affect other provisions or applications that can
239 be given effect without the invalid provision or application.