

# SENATE . . . . . No. 1496

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## 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>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>5/17/2024</i>

# SENATE . . . . . No. 1496

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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.

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## The Commonwealth of Massachusetts

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

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

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

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

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

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

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

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

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

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

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

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

Section 121B. Unserialized and Undetectable Ghost Guns.

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

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

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

(2) Is imprinted with a valid serial number.

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

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

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

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

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

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

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

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

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

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

(8) An authorized representative of a local, state, or federal government that receives a firearm, rifle, shotgun, or any completed or unfinished frame or receiver, as part of an authorized, voluntary buyback program in which the governmental entity is buying or receiving 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121D. Distribution of Digital Firearm Manufacturing Code.

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

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

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

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

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

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

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