

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

April 18, 2022

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

I write to transmit the "Omnibus Firearm and Ghost Gun Clarification Amendment Act of 2022" for consideration and enactment by the Council of the District of Columbia.

Last year, aspects of the District's prohibition on the registration and possession of ghost guns and the manufacture of firearms were challenged in federal district court as violative of the Second Amendment. In November 2021, the Council passed emergency and temporary legislation, introduced by the Office of the Attorney General, that clarified that restrictions on ghost guns do not reach all polymer-frame firearms and made it possible to possess and register self-manufactured firearms that are detectable and have been properly serialized. This permanent measure builds on that earlier legislation by providing more precise language in some areas and clarifying that it remains unlawful to sell unserialized items that meet the definition of a firearm. This proposed permanent legislation preserves the District's strong prohibitions on ghost guns and is consistent with federal law and the best practices of other states.

This proposed legislation also strengthens other provisions of the District's gun laws. It amends current provisions on the lawful transportation of firearms to clarify that noncompliance with those provisions is a criminal offense. It strengthens prohibitions on carrying a firearm while impaired. It applies the same firearms restrictions to stay-away orders that apply to court orders prohibiting harassment, assault, threats, and stalking. And it authorizes and limits the carrying of pistols by off-duty law enforcement officers, other United States officers and employees while on duty, manufacturers, and those transporting firearms for limited purposes.

We appreciate the Council's efforts to ensure that the District's gun laws strike the right balance between constitutional rights and public safety. If you have any questions, please contact me or Deputy Attorney General Emily Gunston at (202) 805-7638.

Sincerely,

A handwritten signature in black ink, appearing to be "KARL A. RACINE". The signature is fluid and cursive, with a large loop at the end.

Karl A. Racine
Attorney General for the District of Columbia


Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Firearms Control Regulations Act of 1975 to clarify requirements involving ghost guns and permit the possession of properly serialized self-manufactured firearms that are not otherwise prohibited, and to make conforming amendments, to regulate carrying of firearms by off-duty law enforcement officers, and expand the prohibition on carrying a pistol while impaired; and to amend An Act To control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, to: clarify restrictions on the lawful transportation of firearms; apply the same rules to stay-away orders that apply to orders prohibiting harassment, assault, threats, and stalking; and authorize and limit the carrying of pistols by off-duty law enforcement officers, other United States officers and employees while on duty, manufacturers, and those transporting firearms for limited purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Omnibus Firearm and Ghost Gun Clarification Amendment Act of 2022”.

Sec. 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01 et seq.), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-2501.01) is amended as follows:

(1) Paragraph (9B) is amended to read as follows:

39 “(9B)(A) “Ghost gun”:

40 “(i) Means any of the following:

41 “(I) A firearm that, after the removal of grips, stocks, and
42 magazines, is not as detectable as the Security Exemplar by walk-through metal detectors
43 calibrated and operated to detect the Security Exemplar;

44 “(II) Any major component of a firearm that, when
45 subjected to inspection by the types of detection devices commonly used at secure public
46 buildings and transit stations, does not generate an image that accurately depicts the shape of the
47 component; or

48 “(III) A firearm, including a frame or receiver, that lacks a
49 unique serial number engraved or cast on it by a licensed manufacturer or importer in accordance
50 with federal law, assigned by the agency of a State and permanently engraved or cast on the
51 firearm, or otherwise placed on the firearm in compliance with section 202; and

52 “(ii) Does not include:

53 “(I) A firearm that has been rendered permanently
54 inoperable;

55 “(II) A firearm manufactured or imported before December
56 16, 1968; or

57 “(III) A firearm identified as provided for under section
58 5842 of the Internal Revenue Code of 1986.

59 “(B) For the purposes of subparagraph (A)(i)(I) of this paragraph,
60 the term “firearm” does not include the frame or receiver of any such weapon.

61 “(C) For the purposes of subparagraph (A)(i)(II) of this

62 paragraph, the term “major component” with respect to a firearm:

63 “(i) Means the slide or cylinder or the frame or receiver of
64 the firearm; and

65 “(ii) In the case of a rifle or shotgun, includes the barrel of
66 the firearm.”.

67 (2) A new paragraph (10A) is added to read as follows:

68 “(10A) “Manufacture”:

69 “(A) Means to fabricate, make, form, produce, or construct, by
70 manual labor or by machinery;

71 “(B) Includes assembling a functional firearm, or molding,
72 machining, or 3D printing a frame or receiver; and

73 “(C) Does not include making or fitting special barrels, stocks, or
74 trigger mechanisms to firearms.”.

75 (3) A new paragraph (11A) is added to read as follows:

76 “(11A) “Permanently inoperable” means incapable of discharging a shot by
77 means of an explosive and incapable of being readily restored to a firing condition.”.

78 (4) Paragraph (12B) is amended to read as follows:

79 “(12B)(A) “Receiver” means a part of a firearm that, when the complete
80 weapon is assembled, is visible from the exterior and provides the housing or structure
81 designed to hold or integrate one or more fire control components, even if pins or other
82 attachments are required to connect those components to the housing or structure.

83 “(B) For the purposes of this paragraph, the term “fire control component”
84 means a component necessary for the firearm to initiate, complete, or continue the firing

85 sequence, and includes a hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism,
86 firing pin, striker, or slide rails.

87 “(C)(i) The term “receiver” shall not include a receiver that has been
88 destroyed.

89 “(ii) For the purposes of this subparagraph, a receiver is destroyed
90 if it has been permanently altered not to provide housing or a structure that may hold or integrate
91 any fire control or essential internal component, and may not readily be assembled, completed,
92 converted, or restored to a functional state.

93 “(D) For the purposes of this act, the term “frame” is synonymous with the
94 term “receiver”.”.

95 (5) Paragraph (17B) is repealed.

96 (b) Section 201(b)(1) (D.C. Official Code § 7-2502.01(b)(1)) is amended to read as
97 follows:

98 “(1)(A) Qualified law enforcement officers, as that phrase is defined in 18 U.S.C.
99 § 926B(c) and (f), who are carrying the identification required by 18 U.S.C. § 926B(d);

100 “(B) Qualified retired law enforcement officers, as that phrase is defined
101 in 18 U.S.C. §926C(c) and (e)(2), who are carrying the identification required by 18 U.S.C. §
102 926C(d);

103 “(C) Members of the Army, Navy, Air Force, or Marine Corps of the
104 United States, or of the National Guard or Organized Reserves, when on duty and duly
105 authorized to carry a firearm; and

106 “(D) Officers or employees of the United States not mentioned in
107 subparagraphs (A) or (C) of this subparagraph, when duly authorized to carry a firearm.”.

108 (c) Section 202 (D.C. Official Code § 7-2502.02) is amended by adding a new subsection

109 (c) to read as follows:

110 “(c)(1) Notwithstanding subsection (a)(5) of this section, a registration certificate may be
111 issued for a self-manufactured firearm that is not prohibited under subsection (a)(1) through (4)
112 or (6) through (8) if:

113 “(A) The applicant meets the requirements of section 203; and

114 “(B) A unique serial number is engraved or cast on, or otherwise
115 permanently affixed to, the firearm in a manner that meets or exceeds the requirements imposed
116 on licensed importers and licensed manufacturers of firearms pursuant to subsection (i) of
117 Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto;
118 provided, that a serial number or mark of identification exceeds these requirements if the
119 engraving, casting, or stamping (impressing) of the serial number exceeds the required minimum
120 depth or exceeds the minimum print size of that provision.

121 “(2)(A) An applicant who meets the requirements of section 203 may register a
122 self-manufactured firearm that does not bear a serial number as described in paragraph (1)(B) of
123 this section, if, prior to finishing the frame or receiver, the applicant has caused a unique serial
124 number to be engraved, casted, stamped (impressed), or placed on the frame or receiver, as set
125 forth in subparagraphs (B) and (C) of this paragraph.

126 “(B) The serial number shall consist of the first and last name of the self-
127 manufacturer, followed by the designation “DC” and then a set of 2 to 5 numbers.

128 “(C) The set of numbers described in subparagraph (B) of this paragraph
129 shall not duplicate any serial number placed by the self-manufacturer on any other firearm. The
130 applicant shall, before engraving, casting, stamping (impressing), or placing a serial number on

131 the frame or receiver, confirm with the Metropolitan Police Department that the proposed serial
132 number has not already been registered to another firearm.”.

133 (d) Section 203(b)(10) (D.C. Official Code § 7-2502.03(b)(10)) is amended by striking
134 the phrase “The name” and inserting the phrase “For a firearm that is not self-manufactured
135 pursuant to section 202, the name” in its place.

136 (e) Section 206 (D.C. Official Code § 7-2502.06) is amended by adding a new
137 subsection (c) to read as follows:

138 “(c) Notwithstanding subsection (a) of this section, a person seeking a registration
139 certificate for a firearm that the person has self-manufactured shall file a registration application
140 within 5 business days of completing manufacture of the firearm.”.

141 (f) Section 401(a) (D.C. Official Code § 7-2504.01(a)) is amended to read as follows:

142 “(a) No person or organization shall engage in the business of manufacturing any
143 firearm, destructive device or parts thereof, or ammunition, within the District; provided, that:

144 “(1) Nothing in this section shall preclude persons not otherwise prohibited from
145 possessing firearms from making their own firearms solely for personal use (not for sale or
146 distribution) in accordance with this act, rules implementing this act, and any applicable federal
147 law or regulation; and

148 “(2) A person holding registration certificates may engage in hand loading,
149 reloading, or custom loading ammunition for his or her registered firearms; provided further, that
150 such person may not hand load, reload, or custom load ammunition for others.”.

151 (g) Section 408(a) (D.C. Official Code § 7-2504.08(a)) is amended as follows:

152 (1) Strike the phrase “No licensee” and insert the phrase “No person or
153 organization” in its place.

154 (2) Strike the phrase “firearm which” and insert the phrase “firearm, including a
155 frame or receiver, which” in its place.

156 (h) Section 501 (D.C. Official Code § 7-2505.01) is amended by striking the phrase
157 “ghost gun, unfinished frame or receiver, or ammunition” and inserting the phrase “ghost gun, or
158 ammunition” in its place.

159 (i) Section 504 (D.C. Official Code § 7-2505.04) is amended by adding a new subsection
160 (b-1) to read as follows:

161 “(b-1) Notwithstanding any other provision of this section, a person may lawfully:

162 “(1) Self-manufacture a pistol; and

163 “(2) Possess and own a pistol that the person self-manufactured pursuant to
164 paragraph (1) of this subsection and registered pursuant to section 202.”.

165 (j) Section 801(3)(B) (D.C. Official Code § 7-2508.01(3)(B)) is amended to read as
166 follows:

167 “(B) A conviction for violating section 201, 401, 501, 601, or 906, or an
168 attempt or conspiracy to commit any of those offenses;”.

169 (k) Section 906(b) (D.C. Official Code § 7-2509.06(b)) is amended by striking the
170 phrase “A licensee shall not” and inserting the phrase “No person shall” in its place.

171 (l) The lead-in language to section 907(b) (D.C. Official Code § 7-2509.07(b)) is
172 amended to read as follows:

173 “(b) Except as provided in 18 U.S.C. §§ 926B and 926C:”.

174 Sec. 3. An Act To control the possession, sale, transfer and use of pistols and other
175 dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of

176 evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-
177 4501 *et seq.*) is amended as follows:

178 (a) Section 3(a)(5)(B) (D.C. Official Code § 22-4503(a)(5)(B)) is amended to read as
179 follows:

180 “(B) Restrains the person from assaulting, harassing, stalking, or
181 threatening any person named in the order, or requires the person to stay away from, or have no
182 contact with, any other person or a location;”.

183 (b) Section 4b (D.C. Official Code § 22-4504.02) is amended as follows:

184 (1) The section title is amended by striking the phrase “Lawful transportation”
185 and inserting the word “Transportation” in its place.

186 (2) Subsection (a) is amended to read as follows:

187 “(a) A person may not transport a firearm unless:

188 “(1) The person is not otherwise prohibited by law from transporting, shipping, or
189 receiving the firearm;

190 “(2) The person is transporting the firearm for a lawful purpose from a place
191 where he or she may lawfully possess and carry the firearm to another place where he or she may
192 lawfully possess and carry the firearm; and

193 “(3) The person transports the firearm in accordance with this section.”.

194 (3) New subsections (e), (f), and (g) are added to read as follows:

195 “(e) The requirements of subsection (b) shall not apply to a person who has a license to
196 carry a pistol concealed upon his or her person pursuant to pursuant to section 6 of An Act To
197 control the possession, sale, transfer, and use of pistols and other dangerous weapons in the
198 District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes,

199 approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22- 4501 et seq.), and who is
200 transporting the firearm concealed upon his or her person.

201 “(f) The requirements of subsection (c) shall not apply to a person who has a license to
202 carry a pistol concealed upon his or her person pursuant to section 6 of An Act To control the
203 possession, sale, transfer, and use of pistols and other dangerous weapons in the District of
204 Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved
205 July 8, 1932 (47 Stat. 650; D.C. Official Code § 22- 4501 et seq.).

206 “(g) Prosecutions for violations of this section shall be brought by the Attorney General
207 for the District of Columbia in the name of the District of Columbia.”.

208 (c) Section 5 (D.C. Official Code § 22-4505) is amended to read as follows:

209 “Sec. 5. Exceptions to section 4.

210 “(a) The provisions of section 4(a), as they pertain to a pistol, and of section 4(a-1), shall
211 not apply to:

212 “(1) A person engaged in the business of manufacturing, repairing, or dealing in
213 firearms, and their agents, employees, and representatives, who possess, carry, or use a pistol in
214 the ordinary course of that business; or

215 “(2) Any person while carrying a pistol, transported in accordance with section
216 4b:

217 “(A) From the place of purchase to his or her home or place of business;

218 “(B) To a place of repair, or back from that place to his or her home or
219 place of business;

220 “(C) While moving goods from one place of abode or business to another;

221 or

222 “(D) To or from any lawful recreational firearm-related activity.

223 “(b) The provisions of section 4(a), and of section 4(a-1), shall not apply to:

224 “(1) Qualified law enforcement officers who are carrying the identification
225 required by 18 U.S.C. § 926B(d);

226 “(2) Qualified retired law enforcement officers who are carrying the identification
227 required by 18 U.S.C. § 926C(d);

228 “(3) Members of the Army, Navy, Air Force, or Marine Corp of the United States,
229 or of the National Guard or Organized Reserves, when on duty and duly authorized to carry a
230 firearm; or

231 “(4) Officers or employees of the United States not otherwise described in
232 paragraphs (1) and (3), when duly authorized to carry a firearm.

233 “(c) The provisions of section 4(a), to the extent that they pertain to a firearm described
234 in 18 U.S.C. § 926C(a), shall not apply to a police officer who has retired from the Metropolitan
235 Police Department, if the police officer:

236 “(1) Is a qualified retired law enforcement officer who is carrying the
237 identification required by 18 U.S.C. § 926C(d);

238 “(2) Has registered the firearm; and

239 “(3) Has concealed the firearm on or about the officer.

240 “(d) For the purposes of this section:

241 “(1) The term “qualified law enforcement officer” means what it means in 18
242 U.S.C. § 926B(c).

243 “(2) The term “qualified retired law enforcement officer” means what it means in
244 18 U.S.C. §926C(c) and (e)(2).

245 “(3) The term “recreational firearm-related activity” includes a firearms training
246 and safety class.”.

247 (d) A new section 5a is added to read as follows:

248 “Sec. 5a. Off-Duty Law Enforcement Officers Carrying Restrictions.

249 “(a) Notwithstanding section 5 or any other law, no off-duty law enforcement officer may
250 carry any firearm, openly or concealed, in the following locations or under the following
251 circumstances:

252 “(1) A building or office occupied by the District of Columbia, its agencies, or its
253 instrumentalities;

254 “(2) A District government property or park;

255 “(3) Any private residential property other than the officer’s own residence, if:

256 “(A) The property is posted with conspicuous signage prohibiting the
257 carrying of a pistol; or

258 “(B) The property owner or person in control of the premises
259 communicates personally to the law enforcement officer in advance of entry onto the residential
260 property that the carrying of pistols is prohibited;

261 “(4) Any private property that does not belong to the law enforcement officer and
262 that is not a residence, including private property open to the public, if:

263 “(A) The property is posted with conspicuous signage prohibiting the
264 carrying of a pistol; or

265 “(B) The owner or authorized agent personally communicates to the law
266 enforcement officer that the carrying of pistols is prohibited;

267 “(5) In a church, synagogue, mosque, or other place where people regularly
268 assemble for religious worship, and that is not otherwise covered by subsections (a)(1) and (2) of
269 this section, if:

270 “(A) The property is posted with conspicuous signage prohibiting the
271 carrying of a pistol; or

272 “(B) The owner or authorized agent communicates to the law enforcement
273 officer that carrying a pistol is prohibited.

274 “(b) For the purposes of this section, a law enforcement officer is off-duty when the
275 officer is not performing an official duty for the governmental agency that authorizes the officer
276 to carry a firearm.

277 “(c) This section shall not apply to the carrying of authorized service weapons by:

278 “(1) Law enforcement officers employed by the District, including members of
279 the Metropolitan Police Department; or

280 “(2) An officer, agent, or employee of the United States, a State, or political
281 subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection,
282 investigation, or prosecution of any violation of law and who is engaged in the lawful
283 performance of their official duties, including travel to or from any official activity and
284 participation in an authorized honor guard.”.

285 Sec. 4. Fiscal impact statement.

286 The Council adopts the fiscal impact statement in the committee report as the fiscal
287 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
288 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

289 Sec. 5. Effective date.

290 This act shall take effect following approval by the Mayor (or in the event of veto by
291 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
292 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
293 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
294 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Emily Gunston
Deputy Attorney General for Legislative Affairs and Policy
Office of the Attorney General

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: April 7, 2022

SUBJECT: Legal Sufficiency Review – Draft “Omnibus Firearm and Ghost Gun
Clarification Amendment Act of 2022”
(AE-21-584 D)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers