



Committee: PS
Committee Review: At a future date
Staff: Christine Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #NoGhostGunsMoCo, #SafetyMattersInMoCo

AGENDA ITEM #8
February 4, 2021
Public Hearing

SUBJECT

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

Lead Sponsor: Council Vice President Alborno

Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice, Riemer and Glass

EXPECTED ATTENDEES

Public speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Public Hearing

DESCRIPTION/ISSUE

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns, would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report

Bill 4-21

Legislative Request Report

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M E M O R A N D U M

February 4, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

PURPOSE: Public Hearing – no Council votes required

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns, sponsored by Lead Sponsor Council Vice President Albornoz and Co-Sponsors, Council President Huckler and Councilmembers Katz, Jawando, Navarro, Friedson, Rice, Riemer and Glass, was introduced on January 19, 2021.¹ A Public Safety Committee worksession will be scheduled at a later date.

Bill 4-21 would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

BACKGROUND

“Ghost guns,” or “do-it-yourself guns,” are unserialized firearms built by unlicensed individuals. These guns evade many firearms regulations. Kits to build ghost guns are readily sold on the internet, without the requirement of federal background checks. Other ghost guns are built at home using blueprints and 3D printers.

When ghost guns are used in crimes, they are untraceable due to lack of serial numbers. During 2020, Montgomery County Police Department (MCPD) officers recovered over 40 ghost guns.

Several states, including Rhode Island and Washington State, as well as the District of Columbia, have passed laws to regulate ghost guns. The Maryland General Assembly has introduced, but not yet passed, legislation to regulated unfinished frames and receivers. At the federal level, Congressional bills to regulate ghost guns have not yet been successful.

¹#NoGhostGunsMoCo, #SafetyMattersInMoCo

SPECIFICS OF THE BILL

The purpose of Bill 4-21 is to begin to address the issue of ghost guns at the County level, consistent with limitations placed upon localities by Maryland state preemption of local firearms regulations. Under Maryland law, the County generally is preempted to regulate in the area of firearms. However, state law carves out certain specific areas in which the County may regulate. In particular, the County may regulate the manufacture, sale, use, or transfer of firearms: (1) with respect to minors; or (2) within 100 yards of a place of public assembly.

In this vein, the bill first would maximize the impact of the County’s firearms regulations by expanding the definition of “place of public assembly”. The definition of “place of public assembly would be expanded to include any “place where the public may assemble, whether the place is publicly or privately owned, including a [government owned] park [identified by the Maryland-National Capital Park and Planning Commission]; place of worship; [elementary or secondary] school; [public] library; [government-owned or -operated] recreational facility; or multipurpose exhibition facility, such as a fairgrounds or conference center.”

With respect to ghost guns or DIY guns, the bill would define ghost guns to include firearms, including unfinished frames or receivers, that are unserialized in accordance with federal regulations. The bill would define undetectable guns to include those that cannot be detected through metal detectors, or that are made with 3D printers. These ghost guns, including unfinished frames or receivers and undetectable guns would be restricted with regard to minors and places of public assembly.

Specifically, the bill would prohibit a person from transferring a ghost gun or undetectable gun to a minor. Further, it would prohibit a person from manufacturing a gun, including through a 3D printing process, in the presence of a minor. Persons also would be prohibited from storing ghost guns, undetectable guns, or gun components in places that the person should know are accessible to minors.

Concerning places of public assembly, the bill would prohibit the sale, transfer, manufacture, or possession of ghost guns or undetectable guns within 100 yards of a place of public assembly. The bill also would prohibit – within 100 yards of a place of public assembly – the sale, transfer, possession, or use of a computer code to create a firearm through a 3D printing process.

<u>This packet contains:</u>	<u>Circle #</u>
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Bill No. 4-21
Concerning: Weapons – Protection of
Minors and Public Places -
Restrictions Against Ghost Guns and
Undetectable Guns
Revised: 1/14/2021 Draft No. 4
Introduced: January 19, 2021
Expires: July 19, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council Vice-President Alborno
Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice,
Riemer and Glass

AN ACT to:

- (1) define terms related to firearm laws;
- (2) restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- (3) restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- (4) generally amend the law regarding firearms and other weapons.

By amending

Montgomery County Code
Chapter 57, Weapons
Sections 57-1, 57-7, and 57-11

By adding

Montgomery County Code
Chapter 57, Weapons
Section 57-16

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 57-1, 57-7, and 57-11 are amended, and Section 57-16 is**
2 **added, as follows:**

3 **57-1. Definitions.**

4 In this Chapter, the following words and phrases have the following meanings:

5 3D printing process: a process of making a three-dimensional, solid
6 object using a computer code or program, including any process in
7 which material is joined or solidified under computer control to create a
8 three-dimensional object.

9 * * *

10 *Gun or firearm:* Any rifle, shotgun, revolver, pistol, ghost gun,
11 undetactable gun, air gun, air rifle or any similar mechanism by
12 whatever name known which is designed to expel a projectile through a
13 gun barrel by the action of any explosive, gas, compressed air, spring or
14 elastic.

15 (1) The term “antique firearm” means (a) any firearm (including any
16 firearm with a matchlock, flintlock, percussion cap, or similar
17 type of ignition system) manufactured in or before 1898; and (b)
18 any replica of any firearm described in subparagraph (a) if such
19 replica (i) is not designed or redesigned or using rimfire or
20 conventional centerfire fixed ammunition, or (ii) uses rimfire or
21 conventional centerfire fixed ammunition which is no longer
22 manufactured in the United States and which is not readily
23 available in the ordinary channels of commercial trade.

24 (2) “Ghost gun” means a firearm, including an unfinished frame or
25 receiver, that lacks a unique serial number engraved or cased in
26 metal alloy on the frame or receiver by a licensed manufacturer,
27 maker or importer under federal law or markings in accordance

28 with 27 C.F.R. § 479.102. It does not include a firearm that has
 29 been rendered permanently inoperable, or a firearm that is not
 30 required to have a serial number in accordance with the Federal
 31 Gun Control Act of 1968.

32 (3) “Handgun” means any pistol, revolver or other firearm capable of
 33 being concealed on the person, including a short-barreled shotgun
 34 and a short-barreled rifle as these terms are defined below.
 35 “Handgun” does not include a shotgun, rifle, or antique firearm.

36 [(3)] (4) “Rifle” means a weapon designed or redesigned, made or
 37 remade, and intended to be fired from the shoulder and designed
 38 or redesigned and made or remade to use the energy of the
 39 explosive in a fixed metallic cartridge to fire only a single
 40 projectile through a rifled bore for each single pull of the trigger.

41 [(4)] (5) The term “short-barreled rifle” means a rifle having one
 42 (1) or more barrels less than sixteen (16) inches in length and any
 43 weapon made from a rifle (whether by alternation, modification
 44 or otherwise) if such weapon, as modified, has an overall length
 45 of less than twenty-six (26) inches.

46 [(5)] (6) The term “short-barreled shotgun” means a shotgun having
 47 one (1) or more barrels less than eighteen (18) inches in length
 48 and any weapon made from a shotgun (whether by alteration,
 49 modification or otherwise) if such weapon as modified has an
 50 overall length of less than twenty-six (26) inches.

51 [(6)] (7) “Shotgun” means a weapon designed or redesigned, made
 52 or remade, and intended to be fired from the shoulder and
 53 designed or redesigned and made or remade to use the energy of
 54 the explosive in a fixed shotgun shell to fire through a smooth

55 bore either a number of ball shot or a single projectile for each
56 single pull of the trigger.

57 (8) “Undetectable gun” means:

58 (A) a firearm that, after the removal of all its parts other than a
59 major component, is not detectable by walk-through metal
60 detectors commonly used at airports or other public
61 buildings;

62 (B) a major component that, if subjected to inspection by the
63 types of detection devices commonly used at airports or
64 other public buildings for security screening, would not
65 generate an image that accurately depicts the shape of the
66 component; or

67 (C) a firearm manufactured wholly of plastic, fiberglass, or
68 through a 3D printing process.

69 * * *

70 Major component means, with respect to a firearm:

71 (1) the slide or cylinder or the frame or receiver; and

72 (2) in the case of a rifle or shotgun, the barrel.

73 *Minor:* An individual younger than 18 years old.

74 * * *

75 *Place of public assembly:* A “place of public assembly” is a place where
76 the public may assemble, whether the place is publicly or privately
77 owned, including a [government owned] park [identified by the
78 Maryland-National Capital Park and Planning Commission]; place of
79 worship; [elementary or secondary] school; [public] library;
80 [government-owned or -operated] recreational facility; hospital;
81 community health center; long-term facility; or multipurpose exhibition

82 facility, such as a fairgrounds or conference center. A place of public
 83 assembly includes all property associated with the place, such as a
 84 parking lot or grounds of a building.

85 * * *

86 **57-7. Access to guns by minors.**

87 (a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or
 88 shotgun or any ammunition or major component for these guns in the
 89 County to a minor. This subsection does not apply when the transferor
 90 is at least 18 years old and is the parent, guardian, or instructor of the
 91 minor, or in connection with a regularly conducted or supervised
 92 program of marksmanship or marksmanship training.

93 (b) An owner, employee, or agent of a gun shop must not allow a minor to,
 94 and a minor must not, enter the gun shop unless the minor is
 95 accompanied by a parent or other legal guardian at all times when the
 96 minor is in the gun shop.

97 (c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:
 98 (1) a ghost gun or major component of a ghost gun;
 99 (2) an undetectable gun or major component of an undetectable gun;
 100 or
 101 (3) a computer code or program to make a gun through a 3D printing
 102 process.

103 (d) A person must not manufacture or assemble a gun, including making a
 104 gun through a 3D printing process, in the presence of a minor.

105 (e) A person must not store or leave a ghost gun, an undetectable gun, or a
 106 major component of a ghost gun or an undetectable gun, in a location
 107 that the person knows or should know is accessible to a minor.

108 [(c)] (f) This section must be construed as broadly as possible within the
 109 limits of State law to protect minors.

110 **57-11. Firearms in or near places of public assembly.**

111 (a) [A] In or within 100 yards of a place of public assembly, a person must
 112 not:

113 (1) sell, transfer, manufacture, assemble, possess, or transport a ghost
 114 gun, undetectable gun, handgun, rifle, or shotgun, or ammunition
 115 or major component for these firearms[, in or within 100 yards of
 116 a place of public assembly]; or

117 (2) sell, transfer, possess, transport, or use a computer code to create,
 118 a firearm through a 3D printing process.

119 (b) This section does not:

120 (1) prohibit the teaching of firearms safety or other educational or
 121 sporting use in the areas described in subsection (a);

122 (2) apply to a law enforcement officer, or a security guard licensed to
 123 carry the firearm;

124 (3) apply to the possession of a firearm or ammunition, other than a
 125 ghost gun or an undetectable gun, in the person's own home;

126 (4) apply to the possession of one firearm, and ammunition for the
 127 firearm, at a business by either the owner who has a permit to
 128 carry the firearm, or one authorized employee of the business
 129 who has a permit to carry the firearm;

130 (5) apply to the possession of a handgun by a person who has
 131 received a permit to carry the handgun under State law; or

132 (6) apply to separate ammunition or an unloaded firearm:

- 133 (A) transported in an enclosed case or in a locked firearms rack
134 on a motor vehicle, unless the firearm is a ghost gun or an
135 undetectable gun; or
136 (B) being surrendered in connection with a gun turn-in or
137 similar program approved by a law enforcement agency.

138 * * *

139 **57-15. Penalty.**

140 Any violation of this Chapter or a condition of an approval certificate issued
141 under this Chapter is a Class A violation to which the maximum penalties for a Class
142 A violation apply. Any violation of Section 57-8 is a Class A civil violation.

143 **57-16. Reporting requirement.**

- 144 (a) The County Police Department must submit a report annually to the
145 County Executive and the County Council regarding the availability and
146 use of ghost guns and undetectable guns in the County.
147 (b) The report must include the number of ghost guns and undetectable
148 guns recovered by the Department during the prior year.
149 (c) Each report must be available to the public on the Police Department's
150 website.

LEGISLATIVE REQUEST REPORT

Bill 4-21

Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

DESCRIPTION: Bill 4-21 would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

PROBLEM: accessibility and use of ghost guns, including unfinished frames and receivers, and undetectable guns in the County

GOALS AND OBJECTIVES: prohibit the use and sale of ghost guns to the greatest extent possible consistent with state law

COORDINATION: MCPD

FISCAL IMPACT: OMB

ECONOMIC IMPACT: OLO

RACIAL EQUITY AND SOCIAL JUSTICE IMPACT: OLO

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: Rhode Island, Washington State, District of Columbia

SOURCE OF INFORMATION: Christine Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Class A Violation: fines of up to \$1,000 and up to 6 months in prison

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