

File No. 210540

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Comm: Public Safety & Neighborhood Services

Date: July 22, 2021

Board of Supervisors Meeting:

Date: _____

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Prepared by: John Carroll

Date: July 16, 2021

Prepared by: John Carroll

Date: _____

Prepared by: John Carroll

Date: _____

1 [Police Code - "Ghost Guns"]

2

3 **Ordinance amending the Police Code to prohibit any person other than a licensed**
4 **manufacturer or importer from possessing, selling, offering for sale, transferring,**
5 **purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or**
6 **receiver that has not been imprinted with a serial number, subject to certain**
7 **exceptions; and prohibiting any person from manufacturing or assembling a firearm**
8 **that has not been imprinted with a serial number, subject to certain exceptions.**

9

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

13

14 Be it ordained by the People of the City and County of San Francisco:

15

16 Section 1. The Police Code is hereby amended by adding Section 620, to read as
17 follows:

18

SEC. 620. UNFINISHED FIREARM FRAMES AND RECEIVERS; MANUFACTURE OR
19 **ASSEMBLY OF UNSERIALIZED FIREARMS.**

20

(a) Findings.

21

(1) "Ghost guns" are untraceable and unregulated firearms that are often assembled by
22 *unlicensed individuals using build-it-yourself kits.*

23

(2) The main precursor part of an assembled firearm is an unfinished "frame" or
24 *"receiver," which contains the firing mechanism, to which other parts are attached. Unfinished frames*

25

1 and receivers are often referred to as “80%” receivers or frames, because they are manufactured just
2 below the percentage of completion that would qualify them as firearms under federal and state law.

3 (3) Sellers often package together an unfinished frame or receiver with all the other
4 parts needed to assemble a ghost gun in a build-it-yourself “ghost gun kit,” with the purpose of
5 avoiding firearms regulations. Assembling the parts into a lethal ghost gun can readily be done by
6 untrained amateurs using common household tools.

7 (4) Ghost gun precursor parts and kits are typically sold by unregulated sellers online,
8 in retail stores or at gun shows, without the protections that California and federal law apply to the
9 manufacture, sale, and transfer of firearms. As of May 2021, no background checks, waiting periods,
10 sale records, age restrictions, or limits on numbers of purchases apply to purchases of precursor parts
11 or kits.

12 (5) Any person with cash in hand – whether a domestic abuser, teenager, gun trafficker,
13 or a person contemplating suicide – can purchase unfinished frames or receivers, from which many can
14 easily build a working firearm. Unfinished frames or receivers, and ghost gun kits, cost far less than
15 firearms produced by licensed manufacturers.

16 (6) In addition, unlike guns produced by licensed firearms manufacturers, a gun
17 assembled using an unfinished frame or receiver does not have a unique serial number allowing it to be
18 traced to the manufacturer, dealer, and purchaser – hence the term “ghost gun.” Although California
19 law requires individuals who assemble firearms to pass a background check, obtain a serial number for
20 the gun, and affix the serial number to the gun within 10 days of assembly, it is all too easy for anyone,
21 including individuals prohibited from purchasing a firearm, to evade these requirements. The absence
22 of a background check makes it possible for persons whom the law recognizes as too dangerous to be
23 permitted to purchase a firearm, to nonetheless be able to do so. And the absence of a serial number
24 on ghost guns cripples the efforts of law enforcement to identify individuals who have used such guns in
25 the commission of a crime, thereby further endangering public safety.

1 (7) Sales of ghost gun precursor parts and kits present serious safety risks, not only for
2 possible victims of gun violence, but also for those who purchase or otherwise possess ghost guns. The
3 precursor parts and kits are often able to skirt the critical consumer safety requirements that apply to
4 new models of handguns sold by licensed dealers and manufacturers in California. California’s
5 Unsafe Handgun Act is designed to ensure that firearms sold in the state function properly and are
6 equipped with lifesaving features that protect lawful users. However, ghost guns assembled from
7 precursor parts and kits typically fail to include essential safety features mandated by the Act. Further,
8 a firearm assembled by an untrained amateur also may be of poor quality and unsafe. And purchasers
9 of precursor parts and build kits typically avoid completing the firearms safety test that California
10 requires of firearms purchasers.

11 (8) The increased availability of ghost guns poses enormous risks to public safety in San
12 Francisco and undermines law enforcement efforts to prevent gun violence. Not surprisingly, the
13 number of ghost guns recovered by law enforcement in San Francisco, as well as in other cities in
14 California, is rising rapidly. In San Francisco, the number of ghost guns seized by local law
15 enforcement jumped 2,733% from 2016 to 2020. This rapid increase continued in 2021, and in the first
16 two months of 2021, ghost guns seized by law enforcement in San Francisco increased by 350%
17 compared to 2019. Further, ghost guns have substantially increased as a proportion of all guns seized
18 in San Francisco. In 2016, ghost guns were less than 1% of all firearms seized in San Francisco, but
19 by 2020, ghost guns represented over 16% of all firearms seized in San Francisco.

20 (9) San Francisco’s experience with ghost guns has paralleled the experience of other
21 cities in California. The California Bureau of Firearms seized 512% more ghost guns from persons
22 identified through the Armed Prohibited Persons System database in 2019 than in 2018. The federal
23 Bureau of Alcohol, Tobacco, and Firearms (ATF) reported in 2019 that 30% of crime guns it recovered
24 in California were ghost guns. In January 2020, the ATF’s Los Angeles Field Division reported that
25 over 40% of its cases involved these weapons. In February 2021, the Los Angeles City Attorney

1 announced that law enforcement had recovered over 700 Polymer80 ghost guns, one brand of ghost
2 gun parts/kits, in Los Angeles in 2020. Ghost guns have been used in a wide variety of crimes in
3 California, including homicides, robberies, school shootings, mass shootings, killings of law
4 enforcement officers, and domestic violence.

5 (10) San Francisco has a compelling interest in protecting its residents from gun
6 violence. It has among the strongest – if not the strongest – firearm safety laws in California. For
7 example, in 2015, San Francisco enacted an ordinance requiring firearms dealers to install video
8 surveillance systems to record all sales and transfers of guns and ammunition, and to report
9 information about ammunition sales to the Police Department. See Ordinance 190-15. San
10 Francisco’s strong gun violence prevention laws are being undermined by the increase in unregulated
11 sales of ghost gun kits and precursor parts.

12 (11) As of May 2021, no licensed gun dealers operated in San Francisco. The last
13 licensed gun dealer closed in 2015. The absence of licensed gun dealers in San Francisco increases
14 the likelihood that residents of San Francisco will seek out ghost gun precursor parts and kits.

15 (b) Definitions.

16 For purposes of this Section 620, the following definitions shall apply:

17 “Antique Firearm” has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).

18 “Assemble” means to fit together component parts.

19 “Federal Firearms Importer or Manufacturer” means a person licensed to import or
20 manufacture firearms pursuant to 18 U.S.C. Chapter 44.

21 “Manufacture” means fabricate, make, form, produce, or construct by manual labor or
22 machinery.

23 “Precursor Parts Vendor” means a person or entity holding a precursor parts vendor license
24 issued under California Penal Code Sections 30400 et seq.

1 “Unfinished Frame or Receiver” means a piece of any material that does not constitute the
2 frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the
3 purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be
4 made into a functional frame or receiver through milling, drilling, or other means.

5 (c) It shall be unlawful for any person to possess, sell, offer to sell, transfer, purchase,
6 transport, receive, or Manufacture an Unfinished Frame or Receiver, unless the person is a Federal
7 Firearms Importer or Manufacturer, or the Unfinished Frame or Receiver is required by federal law to
8 be imprinted with a serial number issued by a Federal Firearms Importer or Manufacturer and the
9 Unfinished Frame or Receiver has been imprinted with the serial number. The foregoing prohibition
10 shall not apply to or affect any of the following:

11 (1) An employee or sworn peace officer of a local, state, or federal law enforcement
12 agency, if the individual is acting in connection with official duties; or

13 (2) A person who is on the centralized list of exempted federal firearms licensees
14 maintained by the California Department of Justice pursuant to California Penal Code Sections 28450,
15 et seq.; or

16 (3) A person whose licensed premises are outside the City and who is licensed as a
17 dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
18 United States Code and the regulations issued under that Chapter; or

19 (4) A common carrier licensed under state law, or a motor carrier, air carrier, or
20 carrier affiliated with an air carrier through common controlling interest that is subject to United
21 States Code Title 49, or an authorized agent of any such carrier, when acting in the course and scope
22 of duties incident to the receipt, processing, transportation, or delivery of property; or

23 (5) Possession, purchase, transport, or receipt of an Unfinished Frame or Receiver by a
24 Precursor Parts Vendor; or

1 (6) Sale or transfer of an Unfinished Frame or Receiver processed through a Precursor
2 Parts Vendor pursuant to Penal Code Section 30400, et seq., provided that the Precursor Parts Vendor
3 ensures that prior to the purchaser or transferee taking possession of the Unfinished Frame or
4 Receiver, the purchaser or transferee obtains a serial number from the California Department of
5 Justice pursuant to California Penal Code Sections 29180 and 29182, the serial number is permanently
6 affixed to the Unfinished Frame or Receiver, and the California Department of Justice is provided
7 sufficient information to identify the purchaser or transferee pursuant to those Penal Code sections ; or

8 (7) Possession of an Unfinished Frame or Receiver by the person who obtained it
9 through a transaction processed by a Precursor Parts Vendor in compliance with subsection (c)(6) of
10 this Section 620.

11 (d) It shall be unlawful for any person to Manufacture, cause to be Manufactured, Assemble, or
12 cause to be Assembled, a firearm that has not been imprinted with a serial number issued by a Federal
13 Firearms Importer or Manufacturer in accordance with federal law. The foregoing prohibition shall
14 not apply to or affect any of the following:

15 (1) A firearm that has been rendered permanently inoperable; or

16 (2) An Antique Firearm; or

17 (3) A firearm that has been determined to be a collector's item pursuant to 26 U.S.C.
18 Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44; or

19 (4) An employee or sworn peace officer of a local, state, or federal law enforcement
20 agency, if the individual is acting in connection with official duties; or

21 (5) The Manufacture or Assembly of a firearm with a frame or receiver processed
22 through a Precursor Parts Vendor pursuant to Penal Code Sections 30400, et seq., provided that the
23 Precursor Parts Vendor ensures that prior to the purchaser or transferee taking possession of the
24 Unfinished Frame or Receiver, the purchaser or transferee obtains a serial number from the California
25 Department of Justice pursuant to California Penal Code Section Sections 29180 and 29182, the serial

1 number is permanently affixed to the Unfinished Frame or Receiver, and the Department of Justice is
2 provided sufficient information to identify the purchaser or transferee pursuant to those Penal Code
3 sections.

4 (e) Penalty. Violation of any of the provisions of this Section 620 is a misdemeanor and upon
5 conviction the violator may be punished by a fine not to exceed \$1,000 or by imprisonment in the
6 county jail not to exceed six months, or by both.

7 (f) Preemption. Nothing in this Section 620 shall be interpreted or applied so as to create any
8 requirement, power, or duty in conflict with any federal or state law.

9 (g) Promotion of General Welfare. In enacting and implementing this Section 620, the City is
10 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on
11 its officers and employees, an obligation for breach of which it is liable in money damages to any
12 person who claims that such breach proximately caused injury.

13 (h) Severability. If any subsection, sentence, clause, phrase, or word of this Section 620, or any
14 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
15 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
16 portions or applications of the Section. The Board of Supervisors hereby declares that it would have
17 passed this Section and each and every subsection, sentence, clause, phrase, and word not declared
18 invalid or unconstitutional without regard to whether any other portion of this ordinance or application
19 thereof would be subsequently declared invalid or unconstitutional.

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

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6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: /s/ Bradley A. Russi
10 BRADLEY A. RUSSI
11 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - "Ghost Guns"]

Ordinance amending the Police Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions.

Existing Law

City law does not regulate the possession, sale, transfer, or manufacture of unfinished firearm parts including frames and receivers. A state law that will come into effect on July 1, 2022, requires that the sale or transfer of unfinished firearm frames or receivers (also known as "precursor parts") to be processed by a licensed vendor in a face to face transaction with a background check. City law also does not regulate the manufacture or assembly of firearms that lack serial numbers. State law requires a person who wishes to self-manufacture or assemble a firearm to obtain a serial number from the California Department of Justice and affix it to the firearm within 10 days of manufacturing or assembling the firearm.

Amendments to Current Law

The proposed ordinance would prohibit any person in San Francisco from possessing, selling, offering to sell, transferring, purchasing, transporting, receiving, or manufacturing an unfinished frame or receiver unless the person holds a federal firearms importer or manufacturer license, or unless the unfinished frame or receiver has been properly imprinted with a serial number issued by a federal firearms importer or manufacturer. Thus, the ordinance would prohibit ordering a firearm assembly kit containing an unfinished frame or receiver for delivery to a San Francisco address if the frame or receiver in the kit lacks a serial number, and would prohibit an online seller from shipping such a kit to a San Francisco address. The ordinance would prohibit possession of an unfinished frame or receiver lacking a serial number obtained from outside San Francisco.

These prohibitions are subject to certain exceptions, including an exception that would allow a person to purchase and possess an unfinished frame or receiver if they first obtain a serial number for it from the California Department of Justice pursuant to Penal Code Section 29180 and process the sale or transfer of the unfinished frame or receiver through a state-licensed precursor parts vendor in a face-to-face transaction with a background check under Penal Code Section 30400, where the vendor ensures the serial number has been obtained and permanently affixed to the frame or receiver prior to the individual taking possession of it and the California Department of Justice is notified of the identity of the owner.

FILE NO. 210540

The proposed ordinance would prohibit anyone in the City from manufacturing or assembling a firearm that lacks a serial number issued by a federal firearms importer or manufacturer. The prohibition is subject to several exceptions, including an exception that would allow a person to assemble or manufacture a firearm with a frame or receiver that has been processed through a state-licensed precursor parts vendor, where the vendor ensures the frame or receiver has been imprinted with a serial number issued by the California Department of Justice.

Violation of the proposed ordinance would be a misdemeanor.

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BOARD of SUPERVISORS



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San Francisco 94102-4689
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TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: William Scott, Police Chief
Paul Miyamoto, Sheriff
Chesa Boudin, District Attorney
Manohar Raju, Public Defender

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee,
Board of Supervisors

DATE: May 21, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Stefani on May 11, 2021:

File No. 210540

Ordinance amending the Police Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Offices of Chair Mar and Supervisor Stefani
Rowena Carr, Police Department
Lili Gamero, Police Department
Diana Oliva-Aroche, Police Department
Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Nancy Crowley, Sheriff's Department
Rich Jue, Sheriff's Department
Christian Kropff Sheriff's Department
David Campos, Office of the District Attorney
Tara Anderson, Office of the District Attorney

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Stefani

Subject:

Police Code - "Ghost Guns"

The text is listed:

Ordinance amending the Police Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions.

Signature of Sponsoring Supervisor: /s/ Catherine Stefani

For Clerk's Use Only