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## BILL ANALYSIS



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Senate Bills 1149 and 1150 (as introduced 11-26-24)

Sponsor: Senator Mallory McMorrow

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 12-9-24

## **INTRODUCTION**

The bills would prohibit a person from manufacturing, assembling, importing, purchasing, selling, or transferring any firearm or firearm part that did not have a valid serial number, including by use of a three-dimensional (3D) printer or computer numerical control (CNC) milling machine without a license. They also would prohibit the sale of 3D printers and CNC milling machines for the purpose of unlicensed firearm manufacturing. Further, beginning January 1, 2025, a person could not possess an undetectable firearm or firearm part, which would be firearms and parts comprised of nonmetal substances that would not be detected by standard security measures. Finally, an unlicensed individual could not manufacture more than three firearms or firearm parts annually and would have to notify the Director of the Michigan State Police (MSP) or the Director's designee within ten days of a firearm's creation. A first violation of these prohibitions would result in a misdemeanor punishable by up to one year in prison or a \$5,000 fine, and a second or subsequent violation would result in a felony punishable by up to five years in prison or a \$10,000 fine. The bills would provide specific exemptions to the prohibitions, including exemptions for antique firearms, inoperable firearms or firearm parts, or transactions involving law enforcement agencies or federally licensed gunsmiths, manufacturers, or importers, among others.

## **FISCAL IMPACT**

The bills' criminal penalties could have a negative fiscal impact on the State and local government. Violations of the bill would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2023 data, the average cost to State government for felony probation supervision is approximately \$4,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

Senate Bill 1150 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Proposed MCL 28.434c (S.B. 1149)

MCL 777.11b (S.B. 1150) Fiscal Analyst: Bruce R. Baker; Joe Carrasco, Jr.; Michael Siracuse

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## **CONTENT**

**Senate Bill 1149 would amend the handgun licensure Act to do the following:**

- **Prohibit an individual from manufacturing, assembling, importing, purchasing, selling, or transferring a firearm, frame, or receiver that did not have a valid serial number.**
- **Beginning January 1, 2025, prohibit a person from knowingly possessing a firearm or any completed or unfinished frame or receiver that was not imprinted with a valid serial number.**
- **Prohibit the use of a 3D printer or CNC milling machine for unlicensed firearm manufacturing.**
- **Prohibit the sale of 3D printers or CNC milling machines for the purpose of unlicensed firearm manufacturing and specify that there would be a presumption that the machines would be intended for manufacturing if marketed as such.**
- **Prohibit an unlicensed individual from manufacturing more than three firearms annually and require the individual to notify the MSP within 10 days of producing a firearm.**
- **Prescribe misdemeanor and felony penalties for violating the bill's provisions.**
- **Specify that the bill's prohibitions would not apply to antique or inoperative firearms, transactions involving law enforcement agencies, law enforcement activities, or buyback programs, among other things.**
- **Require a person who moved into the State to comply with the serialization requirements within 90 days of moving.**

**Senate Bill 1150 would add sentencing guidelines to the Code of Criminal Procedure to make a second or subsequent violation of Senate Bill 1149's prohibitions a Class E felony against the public safety punishable up to five years' imprisonment.**

Senate Bill 1149 is described in greater detail below.

### **Senate Bill 1149**

#### **Prohibitions**

Under the bill, a person could not do any of the following:

- Knowingly manufacture or assemble, cause to be manufactured or assembled, import, purchase, sell, offer to sell, or transfer ownership of any firearm that was not imprinted with a valid serial number.
- Knowingly import, purchase, sell, offer to sell, or transfer ownership of any completed or unfinished frame or receiver, unless the completed or unfinished frame or receiver was considered a firearm under Federal law and was imprinted with a valid serial number.<sup>1</sup>
- Knowingly allow, facilitate, aid, abet, or cause the manufacture or assembly of any firearm or completed or unfinished frame or receiver that was not imprinted with a valid serial number.
- Beginning January 1, 2025, knowingly possess a firearm or any completed or unfinished frame or receiver that was not imprinted with a valid serial number.
- Knowingly manufacture or assemble or cause to be manufactured or assembled, import, sell, offer to sell, transfer, or possess any undetectable firearm.

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<sup>1</sup> Under Federal law, "firearm" means any weapon, including a starter gun which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device.

-- Knowingly allow, facilitate, aid, abet, or cause the manufacture or assembling of a firearm or completed or unfinished frame or receiver, by a person who was legally prohibited from possessing a firearm or completed or unfinished frame or receiver under State or Federal law.

"Manufacture or assemble" would mean to fabricate, construct, fit together component parts of, or otherwise produce a firearm or completed or unfinished frame or receiver, including through additive, subtractive, or other processes.

"Frame" would mean the part of a handgun, or variants thereof, that provides housing or a structure for the component designed to hold back the hammer, striker, bolt, or similar primary energized component prior to initiation of the firing sequence, even if pins or other attachments are required to connect such component to the housing or structure.

"Receiver" would mean the part of a rifle, shotgun, or projectile weapon other than a handgun, or variants thereof, that provides housing or a structure for the primary component designed to block or seal the breech prior to initiation of the firing sequence, even if pins or other attachments are required to connect such component to the housing or structure.

"Unfinished frame or receiver" would mean a forging, casting, printing, extrusion, machined body, or similar item that is designed to or may readily be completed, assembled, or otherwise converted to function as a frame or receiver or is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or otherwise converted. The term would not include a component designed and intended for use in an antique firearm.

"Antique firearm" would mean any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898, and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

"Valid serial number" would mean a serial number that has been imprinted by a person authorized to serialize firearms in accordance with Federal law, or that has otherwise been assigned to a firearm or completed or unfinished frame or receiver in accordance with Federal law.

"Undetectable firearm" would mean a firearm manufactured, assembled, or otherwise comprised entirely of nonmetal substances, if at least one of the following were true:

- After removal of all parts except major components, the firearm is not detectable as a security exemplar by a walk-through metal detector calibrated to detect the security exemplar.
- The firearm 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.

"Major component" would mean, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm. "Security exemplar" would mean an object to be fabricated as prescribed by the director of the United States Attorney General that is constructed of 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun and suitable for testing and calibrating metal detectors.

Additionally, a person could not use a 3D printer or CNC milling machine to manufacture or assemble any firearm or completed or unfinished frame or receiver in the State without a license to manufacture firearms. The bill would prohibit a person from selling, offering to sell, transferring, purchasing, or receiving a 3D printer or CNC milling machine that knowingly or recklessly caused another person in the State to engage in other manufacturing or assembly of a firearm or part by use of that type of machine if the recipient was unlicensed. The bill would specify that there would have to be a presumption that a 3D printer or CNC milling machine would have the primary or intended function of manufacturing or assembling firearms or completed or unfinished frames or receivers, if the printer or machine were marketed or sold in a manner that advertised that it could be used to manufacture or assemble firearms or completed or unfinished frames or receivers, or in a manner that foreseeably promoted the printer's or machine's use in manufacturing or assembling firearms or completed or unfinished frames or receivers, regardless of whether the printer or machine was otherwise described or classified as having other functions or as a general-purpose printer or machine.

"3D printer" would mean a computer-aided manufacturing device capable of producing a 3D object from a 3D digital model through an additive manufacturing process that involves the layering of two-dimensional cross sections formed of a resin or similar material that are fused together to form a 3D object.

"License to manufacture firearms" means a valid license to manufacture firearms issued under Federal law.<sup>2</sup>

A person also could not sell or transfer ownership of a firearm if any of the following applied:

- The person manufactured or assembled the firearm without a license to manufacture firearms.
- The person knowingly caused the firearm to be manufactured or assembled by another person that did not have a license to manufacture firearms.
- The person was aware that the firearm was manufactured or assembled by another person that did not have a license to manufacture firearms.

Finally, a person could not knowingly manufacture or assemble more than three firearms or completed or unfinished frames or receivers in the State in a calendar year without a license to manufacture firearms. A person who manufactured or assembled a firearm or completed or unfinished frame or receiver in the State without firearm manufacturing license would have to notify the MSP Director or the Director's and provide any identifying information concerning the firearm or frame or receiver and the owner of the firearm or frame or receiver requested by the MSP Director, or Director's designee, including the serial number of the firearm or frame or receiver, within 10 days after manufacturing or assembling the firearm or frame or receiver.

### Penalties

A person who violated the provisions described above would be guilty of the following:

- For a first offense, a misdemeanor punishable by up to one years' imprisonment or a maximum fine of \$5,000, or both.
- For a second or subsequent offense, a felony punishable by up to five years' imprisonment or a maximum fine of \$10,000, or both.

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<sup>2</sup> Generally, 18 USC 923 prescribes Federal licensing requirements for individuals and businesses involved in the importation, manufacturing, and dealing of firearms and ammunition.

## Exemptions

The bill would not apply to any of the following:

- An antique firearm, any completed or unfinished frame or receiver of an antique firearm, or any firearm or completed or unfinished frame or receiver that had been rendered permanently inoperable.
- The sale, offer for sale, or transfer of ownership of a firearm, or any completed or unfinished frame or receiver, to a law enforcement agency.
- The manufacture or assembly, importation, purchase, transfer, or possession of a firearm, or any completed or unfinished frame or receiver, by a law enforcement agency for law enforcement purposes.
- The sale or transfer of ownership of a firearm, 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.
- The manufacture or assembly, importation, purchase, or possession of a firearm, 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.
- A member of the United States Armed Forces or the National Guard, a law enforcement agency, or a forensic laboratory, while on duty and acting in the scope and course of employment.
- A common carrier, motor carrier, air carrier, or carrier affiliated with an air carrier through common controlling interest, or an authorized agent of that carrier, when acting in the scope and course of duties incident to the receipt, processing, transportation, or delivery of property.
- An authorized representative of a local, State, or Federal government that received a firearm or any completed or unfinished frame or receiver as part of an authorized, voluntary buyback program in which the governmental entity was buying or receiving firearms or any completed or unfinished frames or receivers from private individuals.
- The possession or importation of a firearm or any completed or unfinished frame or receiver by an individual moving into the State who, within 90 days after moving into the State, caused the firearm or completed or unfinished frame or receiver to be imprinted with a valid serial number, removed the weapon from the State, or otherwise came into compliance with the bill's provisions.

"Federal licensee authorized to serialize firearms" would mean a person, firm, corporation, or other entity that holds any valid Federal license that authorizes the person, firm, corporation, or other entity to imprint serial numbers on firearms and completed or unfinished frames or receivers under Federal law.

"Federally licensed gunsmith, manufacturer, or importer" would mean a person, firm, corporation, or other entity that holds a valid gunsmith license, or license to manufacture or import firearms issued under Federal law.

The prohibitions also would not apply to the possession and disposition of a firearm or any completed or unfinished frame or receiver by a person that met all the following:

- The person was not prohibited by State or Federal law from possessing the firearm or completed or unfinished frame or receiver.
- The person possessed the firearm or any completed or unfinished frame or receiver no longer than was necessary to deliver it to a law enforcement agency for that agency's disposition according to law.

- If the person were transporting the firearm or any completed or unfinished frame or receiver, the person was transporting it to a law enforcement agency to deliver it to the agency for the agency's disposition according to law.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.