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*Testimony of Rep. Sam Zager presenting*

## **LD 1126, An Act Requiring Serial Numbers on Firearms and Prohibiting Undetectable Firearms**

*Before the Joint Standing Committee on Judiciary*

Senator Carney, Representative Kuhn, esteemed Judiciary Committee members, thank you for hearing this bill. I am Sam Zager, representing House District 116, part of Portland. I served in the military from 1993-2004, and during that time I qualified on 9mm handguns, shotguns and the M-16 assault rifle. I learned about firearm carriage, stewardship, responsibilities, and deadly use at both the US Naval Academy and the Marine Corps Base at Quantico. Having taken an oath to support and defend the U.S. and Maine Constitutions many times from 1993 to last December with every other legislator, I believe that guarantees about firearm rights are as much part of those constitutions as the other components.

### Background

I believe this bill brings unserialized firearms (commonly referred to as “ghost guns”) out of the shadows, and affirms the dignity of a Mainer who chooses to craft and possess their own firearms as an exercise of those rights.

Rights have limits though, which Justice Antonin Scalia asserted in the *Heller* decision:

“...the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose...nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.” (District of Columbia v. Heller, 554 U.S. 570, 626 (2008))

And much more recently, the 8-1 *Rahimi* decision strongly affirmed that Second Amendment rights have limits.

For decades, Mainers and other Americans have exercised their Second Amendment right by purchasing serialized firearms, and it's a felony to obliterate or obscure a manufacturer's serial number on those firearms.

### The Problem

In recent years, though, two innovations have made it easy for prohibited persons, that Justice Scalia was concerned about, to get around this reasonable requirement:

1. Mail-order kits, in which the crucial component of the firearm— the receiver— is only “80% complete” can be shipped to anyone. This includes people prohibited from having firearms, i.e. unsupervised minors, domestic violence perpetrators or other felons, or those suffering from psychosis or other severe and persistent mental illness. While such kits don't meet the technical definition of a firearm, they can readily and quickly be made fully functional and deadly. Just last fall, the CEO of UnitedHealth was allegedly killed in New York City with an unserialized firearm, based on statements by the police.<sup>1</sup> And here in Maine, a few years ago, a 16-year old fired six shots from an unserialized weapon and killed a man.<sup>2</sup>
2. 3D printing. This is a technological innovation enabling someone to create all components of a fully functioning firearm completely separate from the federally licensed firearm dealer/importer/manufacture system that has served us for decades. Linked to this testimony is a video showing that a 3D printed firearm recovered by law enforcement was capable of penetrating through a model of human bone and soft tissue to a depth of six inches.<sup>3</sup> That's lethal because it could easily penetrate to a human brain, heart, lungs, major arteries and visceral organs.

So, the problem is that prohibited persons can obtain untraceable and undetectable deadly weapons. Fifteen states have passed similar laws.

### The Proposal

This bill would allow for people to obtain or 3D print firearms, also known as “additive manufacturing,” provided that they bring them to a federally licensed firearms dealer for serialization.

**Prohibiting Undetectable Firearms.** The first thing this bill would do is prohibit undetectable firearms. In other words, the scanners used at airports and certain large venues and public places such as this building, ought to be able to detect firearms. Non-metal firearms have existed for decades, but 3-D printing has made it far easier for far more people to produce receivers and

<sup>1</sup> <https://www.nytimes.com/live/2024/12/09/nyregion/unitedhealthcare-ceo-shooting-news>

<sup>2</sup> <https://www.pressherald.com/2024/05/08/maine-high-court-to-consider-whether-to-try-waldo-county-teen-as-an-adult-in-deadly-shooting/>

<sup>3</sup> <https://www.youtube.com/watch?v=nVZb4910HjU>. See also <https://www.youtube.com/watch?v=zJyf1IrHtcE>.

accessories for highly lethal firearms. This is a commonsense idea, which is why the federal Undetectable Firearms Act passed the U.S. House by a 413-4 roll call, why the Senate passed it by voice assent and President Reagan signed it in 1988.<sup>4</sup> This bill would put this prohibition into state law – so Maine’s law enforcement officers could enforce it. The first offense would be a civil violation. Subsequent violations for possession would be a Class D misdemeanor.<sup>5</sup> Consistent with Justice Scalia’s majority opinion in *Heller*, possessing an undetectable firearm in a courthouse, school, polling location or other sensitive place already defined in statute would be committing a Class C felony.<sup>6</sup> Manufacturing, importing into Maine, selling or transferring an undetectable firearm would also be a Class C crime. Using an undetectable firearm while committing a Class A or Class B crime, or while committing reckless conduct as already defined in statute would be committing a Class C crime (it would otherwise be a Class D crime).

Requiring serial numbers on firearms. Within 48 hours of manufacturing or rendering a firearm operable, a person would need to have an appointment with a federal firearms licensee (FFL), a dealer or gunsmith, to have it serialized. Finding a licensee would not be a hardship because there are over 550 in Maine according to the Bureau of Alcohol, Tobacco and Firearms website.<sup>7</sup> The FFL would imprint the serial number, as already required under Title 27 of the Code of Federal Regulations, section 478.92. There already is a process for this. The serial numbers would be identifiable to the FFL, who has been required for a long time to maintain Acquisition and Disposition records. In other words, this bill does not create a state or federal firearm registry. In order to return the firearm or frame to a person, the FFL must conduct a background check of the transferee, just as in a conventional firearm purchase, pursuant to federal law.

#### Exceptions include:

- Federal firearm licensees acting within the scope of their license.
- Law enforcement officers, for legitimate law enforcement reasons.
- Antique firearms.
- Permanently inoperable firearms.
- Firearms manufactured prior to 1968 when the Federal Gun Control Act was enacted.

#### Conclusion

I hope this committee will see that this bill would bring parity to firearms, as it honors the rights described in the federal and state constitutions. Homemade and home-finished firearms would have a serialization requirement, just like conventionally manufactured firearms have had for many decades. Thank you very much for your attention. I know it’s been a long day. I’d be pleased to answer any questions I can.

<sup>4</sup> <https://www.congress.gov/bill/100th-congress/house-bill/4445#:~:text=Undetectable%20Firearms%20Act%20of%201988%20%2D%20Amends%20the%20Federal%20criminal%20code,by%20walk%2Dthrough%20metal%20detectors>

<sup>5</sup> Class D crimes are punishable by up to 364 days in jail and up to a \$2,000 fine.

<sup>6</sup> Class C crimes are punishable with up to five years prison time and a \$5,000 fine.

<sup>7</sup> [https://www.atf.gov/firearms/listing-federal-firearms-licensees/state?field\\_ffl\\_date\\_value%5Bvalue%5D%5Byear%5D=2025&ffl\\_date\\_month%5Bvalue%5D%5Bmonth%5D=1&field\\_state\\_value=ME](https://www.atf.gov/firearms/listing-federal-firearms-licensees/state?field_ffl_date_value%5Bvalue%5D%5Byear%5D=2025&ffl_date_month%5Bvalue%5D%5Bmonth%5D=1&field_state_value=ME)