

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

November 10, 2021

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 “Ghost Gun Clarification Emergency Amendment Act of 2021,” “Ghost Gun Clarification Emergency Approval Resolution of 2021,” and “Ghost Gun Clarification Temporary Amendment Act of 2021,” (collectively “legislation”) for consideration and enactment by the Council of the District of Columbia.

District law currently prohibits the registration and possession of ghost guns. Recently, however, this prohibition, and a *pre-Heller* provision categorically prohibiting the manufacture of firearms, has been challenged in federal district court as violative of the Second Amendment.

Consequently, there is an immediate need for clarifications to these laws in order to ensure that they prohibit only undetectable and untraceable firearms—true ghost guns—while permitting the self-manufacture of serialized registered firearms. Specifically, there is an immediate need for clarifications to the current definition of “ghost gun” to ensure that only undetectable firearms are captured within it, and that excepted from the definition and the District’s prohibition on manufacture, are self-manufactured firearms, made solely for personal use, that have unique serial numbers and are lawfully registered. These proposed amendments preserve the District’s strong prohibitions on ghost guns but clarify the law’s reach. They are consistent with federal law and the best practices of other States.

OAG thanks the Council for moving swiftly to ensure that the District’s laws strike the right balance between constitutional rights and public safety. If you have any questions, you may contact me, or your staff may contact Deputy Attorney General Emily Gunston at (202) 805-7638.

Sincerely,

A handwritten signature in black ink, appearing to be the name Karl A. Racine. The signature is stylized and cursive.

Karl A. Racine
Attorney General for the District of Columbia



Chairman Phil Mendelson
at the request of the Attorney General

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to approve the Ghost Gun Clarification Emergency Amendment Act of 2021.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Ghost Gun Clarification Emergency Declaration Resolution of 2021”.

Sec. 2. (a) In keeping with public safety, District law prohibits the possession and registration of firearms that are undetectable and untraceable, referred to as “ghost guns.” Statutory provisions governing the licensing of firearms businesses also prohibit the manufacture of firearms, destructive devices, and ammunition.

(b) These ghost-gun and manufacturing prohibitions have been challenged in federal court as inconsistent with the Second Amendment.

(c) There exists an immediate need to clarify District laws concerning ghost guns, and the existing manufacturing prohibition, to ensure that they do not reach lawful serialized firearms and to expressly provide that a person may lawfully register and possess self-manufactured firearms that are properly serialized.

(d) The Ghost Gun Clarification Emergency Amendment Act of 2021 is intended to fill this need by clarifying existing definitions, clarifying the manufacturing prohibition, supplying a

31 registration process for self-manufactured firearms that are properly serialized, and making
32 appropriate conforming amendments.

33 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
34 emergency circumstances making it necessary that the Ghost Gun Clarification Emergency
35 Amendment Act of 2021 be adopted after a single reading.

36 Sec. 4. This resolution shall take effect immediately.

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: November 10, 2021

SUBJECT: Legal Sufficiency Review – Draft “Ghost Gun Clarification Emergency Amendment Act of 2021,” “Ghost Gun Clarification Emergency Declaration Resolution of 2021,” and “Ghost Gun Clarification Temporary Amendment Act of 2021”
(AE-21-584)

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

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