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**Civil Rights & Judiciary Committee**

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**HB 1073**

**Brief Description:** Addressing undetectable and untraceable firearms.

**Sponsors:** Representatives Valdez, Orwall, Slatter, Kloba, Peterson, Kilduff, Ryu, Fitzgibbon, Jinkins, Cody, Doglio, Pollet, Stanford, Frame, Leavitt, Walen and Bergquist; by request of Attorney General.

**Brief Summary of Bill**

- Establishes criminal penalties applicable to undetectable firearms and untraceable firearms.

**Hearing Date:** 1/22/19

**Staff:** Edie Adams (786-7180).

**Background:**

Certain persons are prohibited under state and federal law from possessing firearms, including persons convicted of felony offenses and certain misdemeanor offenses, persons who have been involuntarily committed for mental health treatment, persons subject to certain qualifying protection orders, and, with exceptions, persons under the age of 18. Sales or transfers of firearms in Washington are subject to background checks to determine the eligibility of the purchaser or transferee to possess firearms.

State law imposes a number of regulations with respect to certain types of weapons. With some exceptions, it is a class C felony for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, repair, or possess a machine gun, bump-fire stock, short barreled shotgun, or short-barreled rifle, or any part designed for use in one of these weapons. These weapons and parts are considered contraband and subject to immediate seizure by law enforcement. In addition, it is a class A felony for a person, in the commission or furtherance of a felony, to use or make threats with a machine gun or firearm containing a bump-fire stock.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Undetectable and untraceable firearms have been the subject of recent interest and discussion. Undetectable firearms generally refer to firearms that are not detectable by common screening devices, such as walk-through metal detectors or airport screening devices. Untraceable firearms generally refer to firearms that do not have a serial number, resulting in an inability to trace the chain of distribution. Federal law contains prohibitions relating to some types of undetectable firearms. Under the Undetectable Firearms Act, it is unlawful to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm that is not detectable by walk-through metal detectors after removal of grips, stocks, and magazines, or that has any major component which would not generate an accurate image of its shape when subjected to airport screening devices.

Undetectable and untraceable firearms have been the subject of recent litigation in the context of three-dimensional (3D) printing technology, which allows a person to use computer aided design (CAD) files in conjunction with a 3D printer to make a firearm. In a case involving Defense Distributed, a company that produces and distributes CAD files for the production of firearms, the federal government initially took the position that Internet publication of CAD files that would allow the manufacture of firearms and their parts with a 3D printer would violate federal arms export regulations. In 2018, the federal government and Defense Distributed entered into a settlement agreement that removes these CAD files from regulation and allows their public release and distribution via the Internet. Washington and 19 other states brought suit for injunctive relief and in August 2018, the federal district court issued a preliminary injunction prohibiting implementation or enforcement of the settlement agreement.

#### **Summary of Bill:**

Criminal penalties relating to undetectable firearms and untraceable firearms are established.

"Undetectable firearm" means a firearm that does not contain sufficient metal to be reliably detected by commonly used walk-through metal detectors or that, if subjected to inspection by airport X-ray machines, would not generate an image that accurately depicts the shape of the firearm or component. A firearm is per se undetectable if a major component is made of nonmetal material and does not contain at least 3.7 ounces of steel or steel alloy.

"Untraceable firearm" means any firearm manufactured after July 1, 2019, that cannot be traced from a licensed dealer to the point of its first retail sale by means of a serial number registered with a federally licensed manufacturer imprinted on its major component.

#### Allowing, Facilitating, Aiding, or Abetting Manufacture or Assembly.

It is unlawful for a person to knowingly or recklessly allow, facilitate, aid, or abet the manufacture or assembly of an undetectable firearm or untraceable firearm by a person who is ineligible to possess a firearm under state law or who has signed an unrevoked voluntarily waiver of firearm rights. Failure to conduct a background check is prima facie evidence of recklessness.

A violation is a misdemeanor offense; a second or subsequent violation is a class C felony. A person is guilty of a separate offense for each and every undetectable firearm or untraceable firearm.

#### Manufacturing, Owning, Buying, Selling, Loaning, Furnishing, Transporting, or Possessing.

With some exceptions, it is unlawful for a person to: manufacture, own, buy, sell, loan, furnish, transport, or have in possession or control, any undetectable or untraceable firearm or any part designed and intended solely and exclusively for use in an undetectable or untraceable firearm; or assemble or repair an undetectable or untraceable firearm. A violation is an unranked class C felony.

Undetectable or untraceable firearms that are illegally held or illegally possessed are contraband subject to immediate seizure by law enforcement.

Use of an Undetectable or Untraceable Firearm in a Felony.

It is unlawful for a person, in the commission or furtherance of a felony, to discharge a firearm that is an undetectable or untraceable firearm or to menace or threaten another person with a firearm that is an undetectable or untraceable firearm. A violation is an unranked class A felony.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2019.