

Submitter: Thomas Armstrong
On Behalf Of:
Committee: House Committee On Judiciary
Measure: HB2005

I believe that proposed HB 2005 is legally flawed and if signed in to law will be invalidated for the following reasons:

1. By making possession of existing personally made firearms a crime HB 2005 violates both the Oregon and US Constitution:

“No state shall ... pass any ... ex post facto law ...” Art. I, Sec.10, US. Const.

“No ex-post facto law ... shall ever be passed ...” Art. I, Sec. 21, Oregon Const.

An ex post facto law, as every legislator knows, “is a law that retroactively changes the legal consequences (or status) of actions that were committed, or relationships that existed, before the enactment of the law.”

HB 2005, should it be signed in to law, will be an ex post facto law because law abiding citizens who currently own personally made, unserialized firearms would not longer be law abiding after HB 2005 enactment.

With the stroke of a pen, HB 2005 would make criminals out of thousands of law abiding Oregon citizens.

2. Firearms did not typically have serial numbers until mass production in the late 1800s made serial number useful for commercial manufacture.

Those who create personally made firearms do not have the same interest as a commercial manufacturer.

Thus making a firearm and imprinting or engraving a serial number or other identifying marking is strictly a personal decision.

Making firearms in this manner is how firearms manufacture began hundreds of years ago.

A serial number on a firearm was not a legal requirement until the Gun Control Act of 1968.

HB 2005 recognizes this fact by exempting firearms made prior to 1968 from the serial number requirement:

"SECTION 4. (1) A person may not knowingly possess ... a firearm unless the firearm has been imprinted with a serial number ...in accordance with federal law. (2) This section does not apply to: ... (b) Firearms manufactured prior to October 22, 1968;"

In *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), the US Supreme Court in no uncertain terms declared that any law that infringes the right to keep and bear arms must be based on an historical analogue from the Founding Era.

The serial number requirement in HB 2005 is not based on any Founding Era law and therefore is unconstitutional under the Second Amendment in light of *Bruen*.

3. Section 8 of HB 2005 states:

"This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage."

Where is the emergency? What events have transpired that makes this bill so important?

How many recent crimes have been committed by criminals using unserialized or undetectable firearms?

Until these question has been satisfactorily answered, one can only assume that this emergency clause in HB 2005 is there in order to get the law on the books before any currently pending 2nd Amendment decisions in the 9th Circuit are issued, thus making it harder to get them off the books later.