

MOTION BY SUPERVISORS JANICE HAHN
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June 4, 2024

Join an Amicus Brief in Support of the Federal Rule Regulating Ghost Guns

Ghost guns are partially complete, unserialized, firearm frames or receivers that can be purchased online, without a background check, and quickly assembled into fully functional, untraceable firearms. The recent exponential increase in the availability and use of ghost guns is a grave public safety threat. Ghost gun kits are available online to anyone with a credit card and they provide a ready means for felons, minors, and others who are prohibited from buying firearms to circumvent the law.

To address the growing public safety concerns, in 2022, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) adopted a Final Rule (Rule) that clarified that ghost guns are firearms for purposes of the federal Gun Control Act of 1968 and are subject to existing rules and regulations related to background checks, serialization, record-keeping, and licensing requirements. These requirements imposed on manufacturers and dealers help keep firearms out of the hands of those not legally entitled to possess them and are critical to preventing and solving violent, firearm-related crimes. While at least 16 states, including California, have enacted their own laws regulating ghost guns, the Rule was necessary to implement nationwide to curb the influx

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[1] Jackman T. & Davies, E. (2023, July 12). Teens buying 'ghost guns' online, with deadly consequences. *The Washington Post*. <https://www.washingtonpost.com/dc-md-va/2023/07/12/teens-ghost-guns-deadly-shootings/>

of ghost guns from areas with more lax gun control rules and to fill in gaps in state-by-state enforcement.

After its adoption, the Rule was challenged in federal courts. On November 9, 2023, the Fifth Circuit Court of Appeals affirmed a federal district court's decision that the Rule was beyond the scope of the federal Gun Control Act and not lawful. On April 29, 2024, the U.S. Supreme Court agreed to hear the merits of the case in *Garland v. VanDerStok*.

The County of Santa Clara Office of County Counsel plans to file an amicus curiae brief to support upholding the Rule and will focus on the importance of the Rule in light of the significant public safety threat ghost guns pose to our communities. The Board of Supervisors is committed to taking every avenue possible to reduce gun violence, and the County supports efforts to regulate ghost guns nationwide to keep our communities safe.

WE, THEREFORE, MOVE that the Board of Supervisors:

- 1) Direct County Counsel to join the County of Santa Clara's amicus curiae brief in *Garland v. VanDerStok* in support of reversing the Fifth Circuit's decision and upholding the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives' Rule that ghost guns are firearms for purposes of the federal Gun Control Act and are subject to existing rules and regulations related to background checks, serialization, record-keeping, and licensing requirements.
- 2) Authorize County Counsel, in her discretion, to file or join amicus curiae briefs in other cases in support of gun control laws and regulations, with advanced written notice to the Board of Supervisors before filing or joining an amicus curiae brief.

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