

Personalized Firearms

Background

“Personalized” firearms, also known as “smart” guns, are firearms that can only be fired by authorized users. Personalized guns are designed to prevent shootings, both intentional and unintentional, by children and other unauthorized users. A 2003 study analyzing data from seven years of unintended firearm deaths or deaths of undetermined intent found that 37% of the deaths could have been prevented by a smart gun.¹ Personalized guns also render firearms useless to thieves and criminals who gain access to law enforcement weapons during the course of an arrest or other encounter.

Personalized guns incorporate a variety of design technologies, including magnetic devices and radio frequency transponders. Fingerprint identification and other biometric technologies (i.e., those that rely on the authorized user's unique physical characteristics) are also being developed.

While experts agree that personalized gun technology is scientifically feasible,² those experts also generally agree that the technology is not yet commercially viable. Manufacturers have estimated that handgun personalization will increase the cost of handguns by about 50%, but with the decreasing cost of electronics and economies of scale, the cost of personalization should substantially decrease.³ Moreover, some of the usual incentives to produce a safer product, such as federal consumer safety laws, do not apply to gun manufacturers (see discussion below under Summary of Federal Law).⁴

Summary of Federal Law

Federal law does not set any safety or design standards for domestically manufactured firearms. Most consumer products are regulated by the Consumer Product Safety Commission (CPSC), established in 1972 by the Consumer Product Safety Act. The statutory definition of the term “consumer product,” however, specifically excludes firearms and ammunition.⁵ Accordingly, the CPSC currently has no authority to require gun manufacturers to produce personalized guns or otherwise improve the safety of their products.

¹ Jon S. Vernick et al., *Unintentional and Undetermined Firearm Related Deaths: a Preventable Death Analysis for Three Safety Devices*, 9 *Inj. Prevention* 307, 307-08 (2003) (analyzing data from Maryland and Milwaukee). For additional background on personalized firearms, see Krista D. Robinson et al., *Personalized Guns: Reducing Gun Deaths Through Design Changes* (Johns Hopkins Center for Gun Pol'y & Res.) (Sept. 1996).

² Stephen P. Teret et al., *Making Guns Safer*, *Issues in Science and Technology* 37, 37-39 (Summer 1998).

³ *Id.* at 39.

⁴ In 2007, Legal Community Against Violence developed and released a model law to require personalization of handguns. The model law is available at http://www.lcav.org/library/model_laws/Personalized_Handgun_Model_Law.pdf.

⁵ 15 U.S.C. § 2052(a)(1)(ii)(E). Note that locking devices for firearms are not, by themselves, exempt, and therefore the CPSC has the authority to adopt national safety standards for locking devices. It has not done so. Additional information about locking devices is contained in the section on [Locking Devices](#).

SUMMARY OF STATE LAWS CONCERNING PERSONALIZED FIREARMS

Maryland and New Jersey are the only states that have laws addressing personalized gun technology.

State Laws Concerning Personalized Firearms

[Maryland](#)

Md. Code Ann., Pub. Safety § 5-132

[New Jersey](#)

**N.J. Stat. Ann. §§ 2C:39-1dd, 2C:58-2a(5)(e),
2C:58-2.2 – 2C:58-2.5.**

Description of State Laws Concerning Personalized or Smart Guns

Note that laws in place in Maryland and New Jersey focus on personalized handguns.

1. *Maryland:* A “personalized handgun” is defined under Maryland law as any handgun manufactured with technology incorporated into the design allowing the handgun to be fired only by a person who is the authorized user of the handgun, and preventing any of the handgun’s safety characteristics from being easily deactivated. Maryland’s Handgun Roster Board is required to review the status of personalized handgun technology and report its findings to the Governor and the General Assembly annually.

2. *New Jersey:* In 2002, New Jersey adopted a law that will eventually require smart gun technology to be incorporated into all handguns sold in the state. New Jersey defines a “personalized handgun” as: “[A] handgun which incorporates within its design, and as part of its original manufacture, technology which automatically limits its operational use and which cannot be readily deactivated, so that it may only be fired by an authorized or recognized user.”

Until the Attorney General finds that personalized gun technology is available, he or she is required to report to the Governor and the Legislature every six months regarding the availability of personalized handguns for retail sales purposes.

Twenty-three months after the Attorney General finds that smart handguns are available for retail sale, the Attorney General and the Superintendent of State Police must begin the process of promulgating a list of such handguns that may be sold in New Jersey. This process must be completed within six months.

Six months after the initial list of handguns is approved, it will be unlawful for any licensed manufacturer, wholesaler, or retail firearms dealer to transport into New Jersey, sell, expose for sale, possess with the intent of selling, assign, or otherwise transfer a handgun unless it is a personalized handgun (excluding antique handguns and handguns used by law enforcement or military officers).

SUMMARY OF SELECTED⁶ LOCAL LAWS CONCERNING PERSONALIZED OR SMART GUNS

LCAV has not identified any local ordinances concerning personalized guns.

FEATURES OF COMPREHENSIVE LAW REQUIRING PERSONALIZED FIREARMS

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- An authorized governmental or law enforcement body is charged with monitoring progress in developing personalized firearm technology and reporting regularly to the appropriate authorities (*Maryland (annually), New Jersey (every six months)*)
- When determined to be technologically feasible, personalized firearm technology is required for all handguns manufactured, sold, transferred or possessed in, or transported into, the jurisdiction (*New Jersey*)
- Standards are set for personalized firearms, and personalized firearms are tested and approved by a certified independent lab before they may be sold in the jurisdiction

⁶ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor's veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled "[The Legal Background.](#)"