



DEPARTMENT OF THE ATTORNEY GENERAL

DAVID Y. IGE
GOVERNOR

CLARE E. CONNORS
ATTORNEY GENERAL

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Hawaii Attorney General Announces Lawsuit over Release of 3D-Printed Guns

HONOLULU – Hawaii Attorney General Clare E. Connors today announced a federal lawsuit challenging the Trump Administration’s latest effort to allow 3D-printed gun files to be released on the internet, joining a coalition of 21 attorneys general led by Washington state. These files would allow plug-and-play access to 3D-print unregistered, untraceable firearms that can also be very difficult to detect, even with a metal detector. Untraceable firearms are sometimes called “ghost guns.”

As a result of a previous multistate lawsuit, [a federal judge struck down](#) the Trump Administration’s prior attempt to allow the release of the files. Now, the administration has embarked on a new effort by pursuing formal rules. Those rules were finalized today.

The coalition filed a federal lawsuit today in Seattle in the U.S. District Court for the Western District of Washington, arguing those rules are unlawful for many of the same reasons as the previous attempt.

“The proposed transfer of these ghost gun regulations to the Department of Commerce is being done without sufficient evidence or notice,” said Attorney General Connors. “Turning a blind eye to unregistered, untraceable firearms that anyone can make is dangerous and places our local communities at risk.”

In 2015, Defense Distributed, an organization dedicated to global distribution of open-source, downloadable 3D-printed guns, sued the Obama Administration after the U.S. State Department forced Defense Distributed to remove the files from the internet. The federal government successfully argued before federal trial and appellate courts that posting the files online violates firearm export laws and poses a serious threat to national security and public safety. The United States Supreme Court declined to hear the case.

In defending against Defense Distributed's lawsuit, the federal government previously stated it was "particularly concerned that [the] proposed export of undetectable firearms technology could be used in an assassination, for the manufacture of spare parts by embargoed nations, terrorist groups, or to compromise aviation security overseas in a manner specifically directed at U.S. persons."

Then, in an abrupt reversal, the Trump Administration settled the case on June 29, 2018. As part of the settlement, the Trump Administration agreed to allow unlimited public distribution on the internet of the downloadable files for 3D-printed guns.

Washington State Attorney General Bob Ferguson and a multistate coalition [filed a lawsuit](#) July 30, 2018. On Nov. 12, 2019, Judge Robert Lasnik ruled that the Trump Administration's decision to allow the files' distribution was arbitrary, capricious and unlawful.

"Given the agency's prior position regarding the need to regulate 3D-printed firearms and the CAD files used to manufacture them, it must do more than simply announce a contrary position," Judge Lasnik wrote. "Overall, the Department of State concluded that the worldwide publication of computerized instructions for the manufacture of undetectable firearms was a threat to world peace and the national security interests of the United States and would cause serious and long-lasting harm to its foreign policy. Against these findings, the federal defendants offer nothing."

After losing in court, the Trump Administration is this time publishing new rules that would transfer regulation of 3D-printed guns from the State Department to the Department of Commerce, effectively allowing their unlimited distribution.

In the rules, the administration acknowledges the dangers posed by the distribution of 3D-printed gun files: "Such items could be easily used in the proliferation of conventional weapons, the acquisition of destabilizing numbers of such weapons, or for acts of terrorism. ... The potential for the ease of access to the software and technology, undetectable means of production, and potential to inflict harm on U.S. persons and allies abroad present a grave concern for the United States."

However, due to loopholes in the Commerce regulations, the agency will lack the power to regulate 3D-printed guns in any meaningful way.

The administration also acknowledged that regulating the distribution of 3D-printed gun files does not violate the First or Second Amendments, as some critics have claimed: "Limitations on the dissemination of such functional technology and software do not violate the right to free expression under the First Amendment. Nor does the final rule Violate the right to keep and bear arms under the Second Amendment."

The upcoming lawsuit will assert that the rule is unlawful for similar reasons as the previous effort. The administration has still offered no evidence supporting their about-face on the risks of allowing unregulated access to firearms worldwide, making the rule arbitrary and capricious, in violation of the Administrative Procedure Act (APA). In fact, the administration agrees that regulation is needed, even though its new regulations are toothless and will not prevent the global dissemination of 3D printed guns.

In providing public notice of the rule, the administration mentioned other changes to regulations for small firearms, but not the changes to 3D-printed guns. That failure to provide meaningful public notice also violates the APA.

The states participating in today's lawsuit are: Washington, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, Maryland, Maine, Michigan, Minnesota, North Carolina, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Virginia, Vermont, and the District of Columbia.

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For more information, contact:

Krishna F. Jayaram
Special Assistant to the Attorney General
(808) 586-1284
Email: atg.pio@hawaii.gov
Web: <http://ag.hawaii.gov>
Twitter: @ATGHlgov