

**Congress of the United States**  
**Washington, DC 20515**

May 5, 2021

The Honorable Joseph R. Biden, Jr.  
President of the United States of America  
The White House  
Washington, DC 20500

Dear President Biden:

A recent decision by the United States Court of Appeals for the Ninth Circuit threatens to allow the immediate online distribution of blueprints for three-dimensional (“3-D”) printable firearms. Downloadable gun technology is profoundly dangerous, allowing anyone to build untraceable firearms on demand. We urge your Administration to promptly take administrative action that will keep in place strict regulatory controls over these weapons — and the technical data for their manufacture — and prevent their proliferation.

Widespread do-it-yourself gun printing undermines federal and state laws that block gun access by people who pose the most serious danger to the public — including terrorists, violent felons, and domestic abusers. 3-D printed firearms allow anyone to have a gun without undergoing a criminal background check or otherwise involving the licensed dealer system. With gun schematics and a commercially available 3-D printer, anyone can print an unserialized, plastic “ghost gun.”

The Ninth Circuit’s April 27, 2021 decision in *State of Washington v. U.S. Department of State* arose out of the Trump administration’s efforts to deregulate 3-D printable firearms. Before the Trump administration, 3-D printed firearms and their associated technical files were regulated as “defense articles” under the International Security Assistance and Arms Export Control Act of 1976 (the “Export Control Act”).<sup>[1]</sup> As “defense articles,” 3-D firearms and their technical data were placed on the U.S. Munitions List and governed by the International Traffic in Arms Regulations (“ITAR”), which restricts exports of military technologies in order to protect U.S. national security and foreign policy objectives. This treatment was warranted given legitimate concerns that terrorist groups or outlaw nations could manufacture plastic guns, smuggle them through metal detectors at overseas airports, and use them in attacks, including assassinations, thereby putting Americans and others in grave danger.

The Trump administration sought to undo those needed restrictions on 3-D printed firearms. Through rulemaking proceedings, the Trump administration removed 3-D-printed gun files from the Munitions List and regulation under ITAR, instead placing them under the control of the Commerce Department — which regulates the export of non-Munitions List items under the Export Control Act — and approved their public release on the internet. The Trump administration justified this change in part based on a “significant worldwide market for firearms

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<sup>[1]</sup> 22 U.S.C. § 2778(a)(1).

in connection with civil and recreational activities such as hunting, marksmanship, competitive shooting, and other non-military activities.”<sup>[2]</sup>

Citing the threat to public health and safety posed by the distribution of blueprints for 3-D printed firearms on the internet, twenty-two states and the District of Columbia sued the State Department in federal district court in Washington State to stop the transfer of control over 3-D printed firearms from the State Department to the Commerce Department.<sup>[3]</sup> The district court issued an injunction blocking the Trump administration’s rules from taking effect. But the Ninth Circuit — without reaching the merits of the policy change — concluded that the matter was not subject to judicial review and vacated the injunction. Without further action, the Trump rules will soon go into effect.

We therefore urge your Administration, through further proceedings under the Administrative Procedure Act, to undo the Trump rulemakings. It is entirely within the power and authority of your Administration to transfer regulatory control over 3-D printed firearms and their technical data back to the State Department, return them to the Munitions List, and once again control them under ITAR — a regulatory scheme that makes sense. And your Administration can take these steps without the need for legislation or congressional approval.

It is imperative that we halt the distribution of online blueprints for 3-D firearms and avoid the proliferation of these dangerous, untraceable weapons before the injunction is lifted in a few weeks. We thank you for your prompt attention to this important public safety issue.

Sincerely,



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Edward J. Markey  
United States Senator



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Grace Meng  
Member of Congress

United States Senators  
/s/ Sheldon Whitehouse  
/s/ Richard Blumenthal  
/s/ Robert P. Casey, Jr.  
/s/ Mazie Hirono  
/s/ Richard J. Durbin  
/s/ Jack Reed  
/s/ Cory A. Booker  
/s/ Elizabeth Warren  
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/s/ Juan Vargas  
/s/ Dwight Evans  
/s/ Carolyn B. Maloney  
/s/ Scott H. Peters  
/s/ Henry C. “Hank” Johnson, Jr.  
/s/ Jim Cooper

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<sup>[2]</sup> *Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)*, Docket No. 191107-0079, 83 FR 24166 (May 24, 2018).

<sup>[3]</sup> *State of Washington v. U.S. Dep’t of State*, 2:18-cv-01115, Compl. for Decl. and Inj. Relief (W.D. Wash. July 30, 2018).

United States Senators  
/s/ Kirsten Gillibrand

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/s/ Abigail D. Spanberger  
/s/ Bonnie Watson Coleman  
/s/ Ed Case  
/s/ Jerry McNerney  
/s/ Mark DeSaulnier  
/s/ David N. Cicilline  
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