



U.S. Virgin Islands Law Enforcement Planning Commission

Testimony

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**36th Legislature of the Virgin Islands
Committee on Homeland Security, Justice and Public
Safety**

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**Bill No. 36-0151, "An Act amending 23 Virgin Islands
Code regarding the illegal possession of machineguns and
machine gun conversion devices.**

Testifier - Moleto A. Smith Jr., Director

**Frits E. Lawaetz Conference Room
Christiansted, St. Croix, U. S. Virgin Islands
10:45 AM, Friday, February 13, 2026**



Testimony



Greetings Senator Clifford Joseph, Chairman, 36th Legislature Committee on Homeland Security, Justice and Public Safety, other members of this Committee, other members of the 36th Legislature, as well as the listening and viewing public.

I am Moletto A. Smith Jr., Director, U.S. Virgin Islands Law Enforcement Planning Commission (LEPC). My appearance is to provide testimony on Bill No. 36-0151, "an Act amending 23 Virgin Islands Code regarding illegal possession of machine guns and machine gun conversion devices." This measure is proposed by Senator Angel L. Bolques, Jr.

Pursuant to the Virgin Islands Code, LEPC serves as chief advisory entity to the Governor and as the State Planning Agency for the Virgin Islands for key criminal justice activities including the following:

- Developing policies, plans, programs and budgets for improving coordination, administration and effectiveness of the criminal justice system in the Virgin Islands,
- preparing criminal justice plans, on behalf of the Governor, based on an analysis of the Virgin Islands' criminal justice needs and problems,
- establishing goals, priorities and standards for the reduction of crime and delinquency and the improvement of the administration of justice in the Virgin Islands,
- recommending legislation, to the Governor and Legislature, in the criminal justice field,
- monitoring and evaluating programs and projects, funded in whole or in part by the United States Virgin Islands Government, aimed at reducing crime and delinquency and improving the administration of justice, and,
- collecting from any government entity information, data, reports, statistics, or such material which is necessary to carry out the Commission's functions.

LEPC also serves as the State Administering Agency (SAA) for the administration of United States Department of Justice (USDOJ) grant funds awarded to the Territory through the Bureau of Justice Assistance, Office for Victims of Crime, Office of Violence on Women, Office of Juvenile Justice and Delinquency Prevention and others. Through these areas of responsibility, LEPC has established the following key objectives as high priority:

- (a) Safety of law enforcement personnel,
- (b) evidence-based crime prevention initiatives,
- (c) safekeeping of justice-involved individuals,
- (d) support for victims of crime, and,
- (e) best practices across the justice system to enhance community safety.

My testimony, therefore, is provided in this context.

Analysis of Bill No. 36-0151

Bill No. 36-0151, if enacted as proposed, amends *Virgin Islands Code Title 23 – Internal Security and Public Order, Chapter 5 – Control of Firearms and Ammunitions, Section 451, Definitions, and Section 481, Alteration of identifying marks of weapons prohibited*, in a manner that more substantially aligns with prevailing federal law and regulations governing machineguns and machinegun conversion devices in the following aspects:

- Definition of machinegun and machinegun conversion devices,
- transfer or possession of a machinegun and machinegun conversion devices, and
- penalties, fines and other enforcement actions for prohibited conduct

Federal definition of machinegun

The current federal legal definition of machinegun is provided in:

- U. S. Code Title 26, Internal Revenue Code, Section 5845, Definitions, Subsection (b), and
- Code of Federal Regulations (CFR) Title 27, Chapter II, Subchapter B, Part 478, Subpart B, Section 478.11

- ▶ U. S. Code Title 26, Internal Revenue Code, Section 5845, Definitions, Subsection (b) defines machinegun as follows:

“The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.”

- ▶ Code of Federal Regulations (CFR) Title 27, Chapter II, Subchapter B, Part 478, Subpart B, Section 478.11 provides further details on the federal definition of machinegun. The section reads as follows:

“Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person. For purposes of this definition, the term “automatically” as it modifies “shoots, is designed to shoot, or can be readily restored to shoot,” means functioning as the result of a self-acting or self-regulating mechanism that allows the firing of multiple rounds through a single function of the trigger; and “single function of the trigger” means a single pull of the trigger and analogous motions. The term “machine gun” includes a bump-stock-type device, *i.e.*, a device that allows a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of the semi-automatic firearm to which it is

affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.”

Definitions as would be amended by Bill No. 36-0151 SECTION 1, 1 (a) and (b)

- ▶ Section 1, 1 (a) of Bill No. 36-0151 amends the definition of “Automatic weapon” by including machinegun in the definition.
- ▶ Section 1, 1 (b) of Bill No. 36-0151 amends the definition of “Conversion kit” to include any, and all, devices that may singularly, or in combination, convert a non-automatic weapon into an automatic weapon or machinegun as defined by this proposed legislation.

Federal law on the transfer or possession of a machinegun

In 1986, the U. S. Congress passed the Firearms Owners Protection Act (FOPA), which added Section 922 (o) under the Gun Control Act of 1968 (GCA).

- ▶ U.S. Code - Title 18. Crimes and Criminal Procedure, Chapter 44, Section 922 Unlawful Acts, Subsection (o) Paragraphs (1) and (2)(A) (B) read as follows:

“(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to--

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.” (May 19, 1986)

Bill No. 36-0151 as it relates to the transfer or possession of a machinegun conversion device

- ▶ SECTION 1, (2) of Bill No. 36-0151, if enacted as proposed, would amend Section 481 to make it unlawful to knowingly possess, manufacture, import, sell or offer for sale, along with other specified actions related to machinegun conversion devices within the Virgin Islands. It also provides penalties, fines and enforcement actions for prohibited conduct. Conversely, it details its applicability to classes of persons exempted pursuant to the proposed legislation.

Practical implications if enacted

If enacted as proposed, Bill No. 36-0151 would have significant practical implications, as follows:

- ***Closes the loophole in Virgin Islands law specific to the legal definition and prohibited conduct related to machinegun and machinegun conversion devices.*** While federal law and regulations provide a comprehensive legal definition of machinegun inclusive of any part or device for use in converting a weapon into a machinegun, singularly or in combination, Bill No. 36-0151, provides for similar provisions in the Virgin Islands Code.
- ***Aligns the Virgin Islands with at least 23 States and the District of Columbia that enacted legislation banning the possession of machinegun conversion devices (MCDs), thereby providing law enforcement with an additional tool targeting gun violence.*** According to the National Crime Gun Intelligence Center Initiatives (CGICs), recent data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) indicate a 570% increase in the number of firearms equipped with machinegun conversion devices between 2017 and 2021. Increasingly, these devices are linked to violent crime, including mass shootings and officer fatalities. Their accessibility, often available for under \$100 online or produced with a 3D printer, makes them particularly dangerous. The enactment of Bill No. 36-0151, as proposed, would have the practical implication of increasing the likelihood of safety for law enforcement personnel by significantly reducing risk factors posed by machineguns or MCDs in violent crimes.

According to a March 7, 2022, report published by the *Giffords Law Center to Prevent Gun Violence*, entitled, *Report - Gun Violence in the U.S. Territories*, written by Alex Nguyen, further highlights the dangerous nature of illegally manufactured firearms, including those that may be converted to automatic weapons or machineguns. This report cites the following occurrence:

“On March 22, 2021, the US Attorney for the District of the Virgin Islands announced an indictment of a St. Croix couple who allegedly trafficked over 100 illegally manufactured firearms and sold them throughout the USVI. The couple allegedly ordered \$60,000 worth of gun parts and accessories from companies in North Carolina and Florida and shipped the orders to various post office boxes in St. Croix. In the USVI, they assembled the firearms and sold them with the expectation that the guns would not be registered with the USVI Police Department, as required by law.”

- *Note:* The National Crime Gun Intelligence Center Initiative is a project of the *National Resource and Technical Assistance Center for Improving Law Enforcement Investigations (NRTAC)*. This initiative supports local multidisciplinary teams in their efforts to prevent violent crime by identifying perpetrators, linking criminal activities, and identifying sources of crime guns for immediate disruption, investigation, and prosecution. These efforts and others are all components of Crime Gun Intelligence Centers (CGICs), an innovative and collaborative concept developed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). CGICs are an interagency collaboration focused on the immediate collection, management, and analysis of crime gun evidence, such as shell casings, in real time, in an effort to identify shooters, disrupt criminal activity, and to prevent future violence. CGICs rely on an ongoing collaboration between the ATF, local police department, the local crime laboratory, probation and parole, local police gang units, prosecuting attorneys, U.S. Attorney’s Offices, crime analysts, community groups, and academic organizations.

- ***Comports with consideration of Second Amendment rights under the U.S. Constitution***
 - ▶ Notwithstanding the landmark 2008 U.S. Supreme Court decision in *District of Columbia v. Heller*, indicating that the Second Amendment guarantees an individual right to possess firearms independent of service in a State militia and to use firearms for traditionally lawful purposes, including self-defense within the home, the U.S. Supreme Court clarified that that right does not extend to all firearms nor does it prohibit all regulations of firearms. Correspondingly, in *Heller*, the U. S. Supreme Court said it would be “startling” to suggest that “restrictions on machineguns ...might be unconstitutional.” 554 U.S. at 624. In essence, the Second Amendment protects the possession and use of weapons that are in common use of the time today for self-defense. Furthermore, in *Heller*, the Supreme Court indicates that the right to keep and bear arms for self-defense is not unlimited, rather it is limited by the sorts of weapons protected. Machineguns, as legally defined federally, are not federally unrestricted from regulations.
 - ▶ **The United States Appeals Court for the Sixth Circuit**, in *United States v. Jaquan L. Bridges, No. 24-5874*, on August 7, 2025, unanimously affirmed the constitutionality of the federal machinegun ban. It indicates that arms that are both especially lethal and not commonly possessed for lawful ends may be restricted or banned without violation the Second Amendment. Additionally, the Sixth Circuit indicates that the automatic function of this type of weapon makes it exceedingly dangerous and uniquely adapted for unlawful purposes. The Sixth Circuit further indicates that “with its very limited ability to serve the defensive needs of the average citizen yet its extraordinary capacity to advance the purposes of criminals,” the machinegun “is exactly the type of firearm that is ‘most useful in military service’ and ‘may be banned’ consistent with the Second Amendment.

- **The United States Court of Appeals for the Tenth Circuit**, in *United States of America v. Tamori Morgan*, on September 2, 2025, affirmed the constitutionality of 18 U.S.C. §922 (o), while citing the “common use” standard as its basis.

Statement in support of Bill No. 36-0151

Bill No. 36-0151, if enacted as proposed, will strengthen *Virgin Islands Code, Title 23 – Internal Security and Public Order, Chapter 5 – Control of Firearms and Ammunitions*, by legally defining machinegun and machinegun conversion devices, and by detailing prohibited conduct related to each, respectively, along with associated penalties, fines and other enforcement measures. Moreover, it aligns with prevailing federal law and regulations and is in harmony with Second Amendment protections. Above all else, it seeks to reduce the high risk of danger to law enforcement personnel, particularly police officers, in addition to the high risk of danger to the community at large, from criminal activities involving machineguns and machinegun conversion devices.

For these reasons, and those detailed in the practical implications in my testimony above, I support Bill No. 36-0151.

I thank the Committee on Homeland Security, Justice and Public Safety for providing this opportunity to testify on this important matter.

This concludes my written testimony, and I await any questions that may arise from the Committee.

-- END OF TESTIMONY--
