

1 HB48
2 114745-1
3 By Representative Gipson
4 RFD: Commerce
5 First Read: 12-JAN-10
6 PFD: 12/08/2009

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8 SYNOPSIS: This bill would exempt from federal
9 regulation under the Commerce Clause of the United
10 States Constitution a firearm, a firearm accessory,
11 or ammunition manufactured and retained within the
12 borders of Alabama.

13 This bill would also exclude certain
14 firearms and ammunition from this act.

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 Relating to firearms, firearm accessories, and
21 ammunition manufactured and retained within the borders of
22 Alabama; to exempt from federal regulation under the Commerce
23 Clause of the United States Constitution a firearm, a firearm
24 accessory, or ammunition manufactured and retained in Alabama;
25 and to exclude certain firearms and ammunition from this act.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Alabama Firearms Freedom Act.

3 Section 2. The Legislature finds all of the
4 following:

5 (1) The Tenth Amendment to the United States
6 Constitution guarantees to the states and their people all
7 powers not granted to the federal government elsewhere in the
8 Constitution or prohibited by the Constitution to the states,
9 and reserves to the State of Alabama and its people certain
10 powers as they were understood at the time that Alabama was
11 admitted to statehood in 1819. The guaranty of those powers is
12 a matter of contract between the State of Alabama and its
13 people and the United States as of the time that the compact
14 with the United States was agreed upon and adopted by Alabama
15 and the United States in 1819.

16 (2) The Ninth Amendment to the United States
17 Constitution guarantees to the people that the enumeration of
18 certain rights in the Constitution does not deny other rights
19 not expressly granted in the Constitution and reserves to the
20 people of Alabama certain rights as they were understood at
21 the time that Alabama was admitted to statehood in 1819. The
22 guaranty of those rights is a matter of contract between the
23 State of Alabama and its people and the United States as of
24 the time that the compact with the United States was agreed
25 upon and adopted by Alabama and the United States in 1819.

26 (3) The regulation of intrastate commerce is vested
27 in the states under the Ninth and Tenth Amendments to the

1 United States Constitution, particularly if not expressly
2 preempted by federal law. Congress has not expressly preempted
3 state regulation of intrastate commerce pertaining to the
4 manufacture on an intrastate basis of firearms, firearm
5 accessories, and ammunition.

6 (4) The Second Amendment to the United States
7 Constitution reserves to the people the right to keep and bear
8 arms as that right was understood at the time that Alabama was
9 admitted to statehood in 1819. The guaranty of that right is a
10 matter of contract between the State of Alabama and its people
11 and the United States as of the time that the compact with the
12 United States was agreed upon and adopted by Alabama and the
13 United States in 1819.

14 (5) Section 26 of the Official Recompilation of the
15 Constitution of Alabama of 1901, as amended, secures to
16 Alabama citizens, and prohibits government interference with,
17 the right of an individual Alabama citizen to bear arms in
18 defense of himself or herself and the state. This
19 constitutional protection is unchanged from the Alabama
20 Constitution of 1819, which was approved by Congress, and the
21 right exists as it was understood at the time that the compact
22 with the United States was agreed upon and adopted by Alabama
23 and the United States in 1819.

24 Section 3. For the purposes of this act, the
25 following words shall have the following meanings:

1 (1) BORDERS OF ALABAMA. The boundaries of Alabama as
2 described in Section 37 of the Official ReCompilation of the
3 Constitution of Alabama of 1901, as amended.

4 (2) FIREARM ACCESSORIES. Items that are used in
5 conjunction with or mounted upon a firearm but are not
6 essential to the basic function of a firearm, including, but
7 not limited to, telescopic or laser sights, magazines, flash
8 or sound suppressors, folding or aftermarket stocks and grips,
9 speedloaders, ammunition carriers, and lights for target
10 illumination.

11 (3) GENERIC AND INSIGNIFICANT PARTS. Includes, but
12 is not limited to, springs, screws, nuts, and pins.

13 (4) MANUFACTURED. A firearm, a firearm accessory, or
14 ammunition that has been created from basic materials for
15 functional usefulness, including, but not limited to, forging,
16 casting, machining, or other processes for working materials.

17 Section 4. (a) A personal firearm, a firearm
18 accessory, or ammunition that is manufactured commercially or
19 privately in Alabama and that remains within the borders of
20 Alabama is not subject to federal law or federal regulation,
21 including registration, under the authority of Congress to
22 regulate interstate commerce, because those items have not
23 traveled in interstate commerce.

24 (b) This act applies to a firearm, a firearm
25 accessory, or ammunition that is manufactured in Alabama from
26 basic materials and that can be manufactured without the

1 inclusion of any significant parts imported from another
2 state.

3 (c) Generic and insignificant parts that have other
4 manufacturing or consumer product applications are not
5 firearms, firearm accessories, or ammunition, and their
6 importation into Alabama and incorporation into a firearm, a
7 firearm accessory, or ammunition manufactured in Alabama does
8 not subject the firearm, firearm accessory, or ammunition to
9 federal regulation.

10 (d) Basic materials, such as unmachined steel and
11 unshaped wood, are not firearms, firearm accessories, or
12 ammunition and are not subject to Congressional authority to
13 regulate firearms, firearm accessories, and ammunition under
14 interstate commerce as if they were actually firearms, firearm
15 accessories, or ammunition.

16 (e) The authority of Congress to regulate interstate
17 commerce in basic materials does not include authority to
18 regulate firearms, firearm accessories, and ammunition made in
19 Alabama from those materials.

20 (f) Firearm accessories that are imported into
21 Alabama from another state and that are subject to federal
22 regulation as being in interstate commerce do not subject a
23 firearm to federal regulation under interstate commerce
24 because they are attached to or used in conjunction with a
25 firearm manufactured in Alabama.

26 Section 5. This act shall not apply to any of the
27 following:

1 (1) A firearm that cannot be carried and used by one
2 person.

3 (2) A firearm that has a bore diameter greater than
4 one and one-half inches and that uses smokeless powder, not
5 black powder, as a propellant.

6 (3) Ammunition with a projectile that explodes using
7 an explosion of chemical energy after the projectile leaves
8 the firearm.

9 (4) A firearm that discharges two or more
10 projectiles with one activation of the trigger or other firing
11 device.

12 Section 6. A firearm manufactured or sold in Alabama
13 under this act must have the words "Made in Alabama" clearly
14 stamped on a central metallic part, such as the receiver or
15 frame.

16 Section 7. This act shall apply to firearms, firearm
17 accessories, and ammunition that are manufactured, pursuant to
18 this act, and retained in Alabama on or after October 1, 2010.

19 Section 8. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.