

## 2009 Indiana Legislature



BILL NO. \_\_\_\_  
INTRODUCED BY \_\_\_\_\_

AN ACT EXEMPTING FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN INDIANA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF INDIANA:

**Section 1. Short title.** [Sections 1 through 6] may be cited as the "Indiana Firearms Freedom Act".

**Section 2. Legislative declarations of authority.** The legislature declares that the authority for [sections 1 through 6] is the following:

(1) The 10th amendment to the United States constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Indiana certain powers as they were understood at the time that Indiana was admitted to statehood in 1816. The guaranty of those powers is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

(2) The ninth amendment to the United States constitution guarantees to the people rights not granted in the constitution and reserves to the people of Indiana certain rights as they were understood at the time that Indiana was admitted to statehood in 1816. The guaranty of those rights is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

(3) The regulation of intrastate commerce is vested in the states under the 9th and 10th amendments to the United States constitution, particularly if not expressly preempted by federal law. Congress has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearms accessories, and ammunition.

(4) The second amendment to the United States constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Indiana was admitted to statehood in 1816, and the guaranty of the right is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

(5) Section 32 of the Indiana Constitution states ***“The people shall have a right to bear arms, for the defense of themselves and the State.”*** This clearly secures to Indiana citizens, and prohibits government interference with, the right of individual Indiana citizens to keep and bear arms. This constitutional protection is unchanged from the 1851 Indiana constitution, which was approved by congress and the people of Indiana, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

**Section 3. Definitions.** As used in [sections 1 through 6], the following definitions apply:

(1) "Borders of Indiana" means the boundaries of Indiana described in Article I4, section 1, of the 1851 Indiana constitution.

(2) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speed loaders, ammunition carriers, and lights for target illumination.

(3) "Generic and insignificant parts" includes but is not limited to springs, screws, nuts, and pins.

(4) "Manufactured" means that a firearm, a firearm accessory, or ammunition has been created from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

**Section 4. Prohibitions.** A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Indiana and that remains within the borders of Indiana is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory, or ammunition that is manufactured in Indiana from basic materials and that can be manufactured with the inclusion of any parts imported from another state. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into Indiana and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Indiana does not subject the firearm, firearm accessory, or ammunition to federal regulation. It is declared by the legislature that materials, such as steel and wood, are not firearms, firearms accessories, or ammunition until fully assembled and are not subject to congressional authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were actually firearms, firearms accessories, or ammunition. The authority of congress to regulate interstate commerce in materials does not include authority to regulate firearms, firearms accessories, and ammunition made in Indiana from those materials. Firearms accessories that are imported into Indiana from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Indiana.

**Section 5. Exceptions.** [Section 4] does not apply to:

(1) a firearm that has a bore diameter greater than 4 inches and that uses smokeless powder, not black powder, as a propellant;

**Section 6. Marketing of firearms.** A firearm manufactured or sold in Indiana under [sections 1 through 6] must have the words "Made in Indiana" clearly stamped or machined on a central metallic part, such as the receiver or frame.

**Section 7. Applicability.** [This act] applies to firearms, firearms accessories, and ammunition that are manufactured, as defined in [section 3], and retained in Indiana after October 1, 2009.

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