

LEGISLATURE OF THE STATE OF IDAHO
Sixty-second Legislature First Regular Session - 2013

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 229

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; PROVIDING LEGISLATIVE DECLARATION; AMENDING SECTION 18-3315A, IDAHO CODE, TO REVISE AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE DECLARATION. The Legislature of the State of Idaho declares in connection with Section 18-3315A, Idaho Code:

The Tenth 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 the people of Idaho certain powers as they were understood at the time that Idaho was admitted to statehood in 1890. The guaranty of those powers is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States.

The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Idaho certain rights as they were understood at the time that Idaho was admitted to statehood in 1890. The guaranty of those powers is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States.

The regulation of intrastate commerce is vested in the states under the Ninth and Tenth 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.

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 Idaho was admitted to statehood in 1890, and the guaranty of the right is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States.

Section 11, article I, of the Idaho Constitution clearly secures and prohibits government interference with the right of individual Idaho citizens to keep and bear arms. This constitutional protection is unchanged from the 1890 Idaho Constitution, which was approved by Congress and the people of Idaho, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Idaho and the United States in 1890.

1 SECTION 2. That Section 18-3315A, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1)
4 As used in this section:

5 (a) "Borders of Idaho" means the boundaries of Idaho described in chap-
6 ter 1, title 31, Idaho Code.

7 (b) "Firearms accessories" means items that are used in conjunction
8 with or mounted upon a firearm but are not essential to the basic func-
9 tion of a firearm including, but not limited to, telescopic or laser
10 sights, magazines, flash or sound suppressors, folding or aftermarket
11 stocks and grips, speedloaders, ammunition, ammunition carriers and
12 lights for target illumination.

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

15 (d) "Manufactured" means that a firearm, a firearm accessory, or ammu-
16 nition has been created from basic materials for functional usefulness
17 including, but not limited to, forging, casting, machining or other
18 processes for working materials.

19 (2) A ~~personal~~ firearm, a firearm accessory, or ammunition that is
20 manufactured commercially or privately in Idaho and that remains within the
21 borders of Idaho is not subject to federal law or federal regulation, includ-
22 ing registration, ~~under the authority of congress to regulate interstate~~
23 ~~commerce~~ special taxation or confiscation. It is declared by the legisla-
24 ture that those items have not traveled in interstate commerce and are not
25 subject to the authority of congress to regulate under its commerce power.
26 This section applies to a firearm, a firearm accessory or ammunition that
27 is manufactured in Idaho from basic materials and that can be manufactured
28 without the inclusion of any significant parts imported from another state.

29 (3) It is declared by the legislature that generic and insignificant
30 parts that have other manufacturing or consumer product applications are not
31 firearms, firearms accessories or ammunition, and their importation into
32 Idaho and incorporation into a firearm, a firearm accessory or ammunition
33 manufactured in Idaho does not subject the firearm, firearm accessory or am-
34 munition to federal regulation. It is declared by the legislature that basic
35 materials, such as unmachined steel and unshaped wood, are not firearms,
36 firearms accessories or ammunition and are not subject to congressional
37 authority to regulate firearms, firearms accessories and ammunition under
38 interstate commerce as if they were actually firearms, firearms accessories
39 or ammunition. The authority of congress to regulate interstate commerce in
40 basic materials does not include authority to regulate firearms, firearms
41 accessories and ammunition made in Idaho from those materials. Firearms
42 accessories that are imported into Idaho from another state and that are
43 subject to federal regulation as being in interstate commerce do not subject
44 a firearm to federal regulation under interstate commerce because they are
45 attached to or used in conjunction with a firearm in Idaho.

46 (4) Any firearm or firearm accessory that is subject to any federal law
47 or executive order, but which is manufactured in Idaho and remains within
48 the borders of Idaho, is not subject to the authority of congress to regulate
49 under its commerce power because of the federal prohibition against such

1 firearm or firearm accessory in interstate commerce. Therefore, any firearm
 2 or firearm accessory federally prohibited under the authority of congress to
 3 regulate interstate commerce may be manufactured, transferred, possessed or
 4 owned within the borders of Idaho.

5 (5) Subsections (2) and (3) of this section do not apply to:

6 (a) A firearm that cannot be carried and used by one (1) person;

7 (b) A firearm that has a bore diameter greater than one and one-half
 8 (1 1/2) inches and that uses smokeless powder, not black powder, as a
 9 propellant;

10 (c) Ammunition with a projectile that explodes using an explosion of
 11 chemical energy after the projectile leaves the firearm; or

12 (d) A firearm that discharges two (2) or more rounds of ammunition with
 13 one (1) activation of the trigger or other firing device.

14 (56) In order to be afforded the protections set forth in subsections
 15 (2) and (4) of this section, aA firearm or firearm accessory manufactured or
 16 sold in Idaho under this section shall have the words "Made in Idaho" clearly
 17 stamped on a central metallic part, such as the receiver or frame.

18 (67) This section applies to firearms, firearms accessories and ammu-
 19 nition that are manufactured ~~as defined in subsection (1)~~ and retained in
 20 Idaho after October 1, 2010.

21 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
 22 to be severable and if any provision of this act or the application of such
 23 provision to any person or circumstance is declared invalid for any reason,
 24 such declaration shall not affect the validity of the remaining portions of
 25 this act.

26 SECTION 4. An emergency existing therefor, which emergency is hereby
 27 declared to exist, this act shall be in full force and effect on and after its
 28 passage and approval.