

HB 21

2010

1 A bill to be entitled
2 An act relating to regulation of firearms; creating s.
3 790.34, F.S.; creating the Florida Firearms Freedom Act;
4 providing a short title; providing legislative findings;
5 providing definitions; providing that specified firearms,
6 firearm accessories, and ammunition for personal use
7 manufactured in the state are not subject to federal law
8 or regulation; providing that the importation into the
9 state of specified parts and the incorporation of such
10 parts into a firearm, firearm accessory, or ammunition
11 manufactured in the state does not subject the firearm,
12 firearm accessory, or ammunition to federal regulation;
13 providing that certain basic materials are not subject to
14 federal regulation of firearms, firearm accessories, or
15 ammunition under interstate commerce; providing that
16 specified firearm accessories imported into the state from
17 another state do not subject a firearm to federal
18 regulation under interstate commerce; providing
19 legislative findings with respect thereto; providing
20 exceptions; providing applicability; requiring that
21 firearms manufactured and sold in the state must bear an
22 indicia of manufacture by a specified date; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 790.34, Florida Statutes, is created to
28 read:

29 790.34 Florida Firearms Freedom Act.--
 30 (1) SHORT TITLE.--This section may be cited as the
 31 "Florida Firearms Freedom Act."
 32 (2) LEGISLATIVE FINDINGS.--
 33 (a) The Tenth Amendment to the United States Constitution
 34 guarantees to the states and their citizens all powers not
 35 granted to the Federal Government elsewhere in the constitution
 36 and reserves to the State of Florida and its citizens certain
 37 powers as they were understood at the time that Florida was
 38 admitted to statehood in 1845. The guaranty of those powers is a
 39 matter of contract between the State of Florida and the citizens
 40 thereof and the United States as of the time that the compact
 41 with the United States was agreed upon and adopted by Florida
 42 and the United States in 1845.
 43 (b) The regulation of intrastate commerce by the Ninth
 44 Amendment to the United States Constitution guarantees to the
 45 people rights not granted in the constitution and reserves to
 46 the State of Florida and its citizens certain rights as they
 47 were understood at the time that Florida was admitted to
 48 statehood in 1845. The guaranty of those powers is a matter of
 49 contract between the State of Florida and the citizens thereof
 50 and the United States as of the time that the compact with the
 51 United States was agreed upon and adopted by Florida and the
 52 United States in 1845.
 53 (c) The regulation of intrastate commerce is vested in the
 54 states under the Ninth Amendment and the Tenth Amendment to the
 55 United States Constitution, particularly if not expressly
 56 preempted by federal law. Congress has not expressly preempted

57 state regulation of intrastate commerce pertaining to the
 58 intrastate manufacture of firearms, firearm accessories, and
 59 ammunition.

60 (d) The Second Amendment to the United States Constitution
 61 reserves to the people the right to keep and bear arms as that
 62 right was understood at the time that Florida was admitted to
 63 statehood in 1845. The guaranty of that right is a matter of
 64 contract between the State of Florida and its citizens and the
 65 United States as of the time that the compact with the United
 66 States was agreed upon and adopted by Florida and the United
 67 States in 1845.

68 (e) Section 8, Article I of the Florida Constitution
 69 clearly secures to the citizens of Florida, and prohibits
 70 government interference with, the right of individual Florida
 71 citizens to keep and bear arms. This constitutional protection
 72 remains unchanged from the original Florida Constitution, which
 73 was approved by Congress and the people of Florida, and the
 74 right exists as it was understood at the time that the compact
 75 with the United States was agreed upon and adopted by Florida
 76 and the United States in 1845.

77 (3) DEFINITIONS.--As used in this section:

78 (a) "Basic materials" means raw materials, including, but
 79 not limited to, unmachined steel and unshaped wood, used in the
 80 creation and manufacture of firearms, firearm accessories, or
 81 ammunition that have manufacturing or consumer product
 82 applications other than applications in the manufacture of
 83 firearms, firearm accessories, or ammunition.

84 (b) "Borders of Florida" means the boundaries of Florida
 85 as described in s. 1, Art. II of the Florida Constitution.

86 (c) "Firearm accessories" means items that are used in
 87 conjunction with or mounted on a firearm but are not essential
 88 to the basic function of a firearm, including, but not limited
 89 to, telescopic or laser sights, magazines, flash or sound
 90 suppressors, folding or aftermarket stocks and grips, speed-
 91 loaders, ammunition carriers, and lights for target
 92 illumination.

93 (d) "Generic and insignificant parts" includes, but is not
 94 limited to, springs, screws, nuts, and pins that may be used in
 95 the manufacture of firearms, firearm accessories, or ammunition
 96 but that have manufacturing or consumer product applications
 97 other than applications in the manufacture of firearms, firearm
 98 accessories, or ammunition.

99 (e) "Manufactured" means the creation of a firearm, a
 100 firearm accessory, or ammunition from basic materials for
 101 functional usefulness, including, but not limited to, forging,
 102 casting, machining, or any other processes used to form
 103 materials used in the creation of firearms, firearm accessories,
 104 or ammunition.

105 (4) FIREARMS, FIREARM ACCESSORIES, AND AMMUNITION FOR
 106 PERSONAL USE MANUFACTURED AND REMAINING IN FLORIDA NOT SUBJECT
 107 TO FEDERAL LAW OR REGULATION; LEGISLATIVE FINDINGS.--

108 (a)1. It is the finding of the Legislature that a firearm,
 109 firearm accessory, or ammunition for personal use that is
 110 manufactured commercially or privately in Florida from basic
 111 materials without the inclusion of any significant parts

112 imported from another state and that remains within the borders
 113 of Florida is not considered to have traveled in interstate
 114 commerce.

115 2. A firearm, firearm accessory, or ammunition that:

116 a. Is for personal use;

117 b. Is manufactured commercially or privately in Florida
 118 from basic materials without the inclusion of any significant
 119 parts imported from another state;

120 c. With respect to a firearm, has the words "Made in
 121 Florida" clearly stamped on a central metallic part of the
 122 firearm, such as the receiver or frame; and

123 d. Remains within the borders of Florida

124
 125 is not subject to federal law or federal regulation, including
 126 registration, under the authority of Congress to regulate
 127 interstate commerce.

128 (b)1. It is the finding of the Legislature that generic
 129 and insignificant parts that may be used in the manufacture of
 130 firearms, firearm accessories, or ammunition but that have
 131 manufacturing or consumer product applications other than
 132 applications in the manufacture of firearms, firearm
 133 accessories, or ammunition are not considered to be firearms,
 134 firearm accessories, or ammunition.

135 2. The importation into the state of generic and
 136 insignificant parts that may be used in the manufacture of
 137 firearms, firearm accessories, or ammunition but that have
 138 manufacturing or consumer product applications other than
 139 applications in the manufacture of firearms, firearm

HB 21

2010

140 accessories, or ammunition, and the incorporation of such parts
141 into a firearm, firearm accessory, or ammunition manufactured in
142 the state, does not subject the firearm, firearm accessory, or
143 ammunition to federal regulation.

144 (c)1. It is the finding of the Legislature that basic
145 materials, such as unmachined steel and unshaped wood, that may
146 be used in the manufacture of firearms, firearm accessories, or
147 ammunition but that have manufacturing or consumer product
148 applications other than applications in the manufacture of
149 firearms, firearm accessories, or ammunition are not considered
150 to be firearms, firearm accessories, or ammunition.

151 2. Basic materials, such as unmachined steel and unshaped
152 wood, that may be used in the manufacture of firearms, firearm
153 accessories, or ammunition but that have manufacturing or
154 consumer product applications other than applications in the
155 manufacture of firearms, firearm accessories, or ammunition are
156 not subject to congressional authority to regulate firearms,
157 firearm accessories, or ammunition under interstate commerce as
158 if such basic materials were actually firearms, firearm
159 accessories, or ammunition.

160 3. The authority of Congress to regulate interstate
161 commerce in basic materials does not include the authority to
162 regulate firearms, firearm accessories, and ammunition
163 manufactured in the state from basic materials and that remain
164 within the state.

165 (d) Firearm accessories that are imported into the state
166 from another state and that are subject to federal regulation as
167 being in interstate commerce do not subject a firearm to federal

HB 21

2010

168 regulation under interstate commerce by virtue of being attached
169 to or used in conjunction with a firearm in Florida.

170 (5) EXCEPTIONS.--This section does not apply to:

171 (a) A firearm that cannot be carried and used by one
172 person.

173 (b) A firearm that has a bore diameter greater than 1 1/2
174 inches and that uses smokeless powder, rather than black powder,
175 as a propellant.

176 (c) Ammunition with a projectile that explodes using an
177 explosion of chemical energy after the projectile leaves the
178 firearm.

179 (d) A firearm that discharges two or more projectiles with
180 one activation of the trigger or other firing device.

181 (6) APPLICABILITY.--This section applies to firearms,
182 firearm accessories, and ammunition described in subparagraph
183 (4) (a) 2. that are manufactured in Florida after October 1, 2010,
184 and remain within the state.

185 (7) FIREARMS MANUFACTURED IN FLORIDA; INDICIA OF
186 MANUFACTURE REQUIRED.--Effective October 1, 2010, a firearm
187 manufactured and sold in this state must have the indicia "Made
188 in Florida" clearly stamped on a central metallic part of the
189 firearm, such as the receiver or frame.

190 Section 2. This act shall take effect October 1, 2010.