

LEGISLATURE OF THE STATE OF IDAHO

## Sixtieth Legislature

## Second Regular Session - 2010

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 589, As Amended in the Senate

## BY STATE AFFAIRS COMMITTEE

## AN ACT

RELATING TO FIREARMS MANUFACTURED IN IDAHO; TO PROVIDE A SHORT TITLE; TO PROVIDE LEGISLATIVE INTENT; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3315A, IDAHO CODE, TO PROVIDE PROHIBITIONS ON REGULATION OF CERTAIN FIREARMS, FIREARM ACCESSORIES OR AMMUNITION BY THE FEDERAL GOVERNMENT, TO PROVIDE EXCEPTIONS, TO PROVIDE REQUIREMENTS FOR MARKETING OF FIREARMS IN IDAHO AND TO PROVIDE APPLICABILITY; AND PROVIDING SEVERABILITY.

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

SECTION 1. SHORT TITLE. This act may be cited as the "Idaho Firearms Freedom Act."

SECTION 2. LEGISLATIVE INTENT. The Legislature declares that the authority for this act is the following:

(1) 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 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 in 1890.

(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 Idaho certain rights as they were understood at the time that Idaho was admitted to statehood in 1890. The guaranty of those rights 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 in 1890.

(3) 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.

(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 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 in 1890.

(5) Section 11, Article I, of the Constitution of the State of Idaho clearly secures to Idaho citizens, and prohibits government interference

1 with, the right of individual Idaho citizens to keep and bear arms. This  
2 constitutional protection in the Idaho Constitution, which was approved by  
3 Congress and the people of Idaho, and the right exists as it was understood at  
4 the time that the compact with the United States was agreed upon and adopted  
5 by Idaho and the United States in 1890.

6 (6) In 2009, the Idaho Legislature adopted House Joint Memorial No.  
7 4, which stated findings of the Legislature claiming sovereignty under the  
8 Tenth Amendment to the Constitution of the United States over all powers  
9 not otherwise enumerated and granted to the federal government by the  
10 Constitution.

11 (7) In enacting this law, the Idaho legislators are declaring their in-  
12 tention of Idaho becoming the freest state in the Union.

13 SECTION 3. That Chapter 33, Title 18, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 18-3315A, Idaho Code, and to read as follows:

16 18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1)  
17 As used in this section:

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

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

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

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

32 (2) A personal firearm, a firearm accessory, or ammunition that is  
33 manufactured commercially or privately in Idaho and that remains within the  
34 borders of Idaho is not subject to federal law or federal regulation, includ-  
35 ing registration, under the authority of congress to regulate interstate  
36 commerce. It is declared by the legislature that those items have not trav-  
37 eled in interstate commerce. This section applies to a firearm, a firearm  
38 accessory or ammunition that is manufactured in Idaho from basic materials  
39 and that can be manufactured without the inclusion of any significant parts  
40 imported from another state.

41 (3) It is declared by the legislature that generic and insignificant  
42 parts that have other manufacturing or consumer product applications are not  
43 firearms, firearms accessories or ammunition, and their importation into  
44 Idaho and incorporation into a firearm, a firearm accessory or ammunition  
45 manufactured in Idaho does not subject the firearm, firearm accessory or am-  
46 munition to federal regulation. It is declared by the legislature that basic  
47 materials, such as unmachined steel and unshaped wood, are not firearms,  
48 firearms accessories or ammunition and are not subject to congressional  
49 authority to regulate firearms, firearms accessories and ammunition under

1       interstate commerce as if they were actually firearms, firearms accessories  
2       or ammunition. The authority of congress to regulate interstate commerce in  
3       basic materials does not include authority to regulate firearms, firearms  
4       accessories and ammunition made in Idaho from those materials. Firearms  
5       accessories that are imported into Idaho from another state and that are  
6       subject to federal regulation as being in interstate commerce do not subject  
7       a firearm to federal regulation under interstate commerce because they are  
8       attached to or used in conjunction with a firearm in Idaho.

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

- 10             (a) A firearm that cannot be carried and used by one (1) person;
- 11             (b) A firearm that has a bore diameter greater than one and one-half (1  
12             1/2) inches and that uses smokeless powder, not black powder, as a pro-  
13             pellant;
- 14             (c) Ammunition with a projectile that explodes using an explosion of  
15             chemical energy after the projectile leaves the firearm; or
- 16             (d) A firearm that discharges two (2) or more rounds of ammunition with  
17             one (1) activation of the trigger or other firing device.

18             (5) A firearm manufactured or sold in Idaho under this section shall  
19       have the words "Made in Idaho" clearly stamped on a central metallic part,  
20       such as the receiver or frame.

21             (6) This section applies to firearms, firearms accessories and ammuni-  
22       tion that are manufactured as defined in subsection (1) and retained in Idaho  
23       after October 1, 2010.

24             SECTION 4. The provisions of this act are hereby declared to be sever-  
25       able and if any provision of this act or the application of such provision to  
26       any person or circumstance is declared invalid for any reason, such declara-  
27       tion shall not affect the validity of the remaining portions of this act.