

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 300

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SMALL ARMS PROTECTION; AMENDING CHAPTER 33, TITLE 18, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 18-3315C, IDAHO CODE, TO PROVIDE
3 A SHORT TITLE, TO PROVIDE LEGISLATIVE AUTHORITY AND INTENT, TO DEFINE
4 TERMS, TO PROHIBIT ENFORCEMENT OF CERTAIN LAWS, TO PROVIDE THAT THE
5 ATTORNEY GENERAL SHALL CHALLENGE CERTAIN LAWS, TO PROVIDE A RIGHT OF
6 INTERVENTION, AND TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.
7

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

9 SECTION 1. That Chapter 33, Title 18, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 18-3315C, Idaho Code, and to read as follows:

12 18-3315C. SMALL ARMS PROTECTION. (1) Short title. This section shall
13 be known and may be cited as the "Idaho Small Arms Protection Act."

14 (2) Legislative authority and intent.

15 (a) The provisions of this section are authorized pursuant to the au-
16 thority of the United States constitution and the constitution of the
17 state of Idaho, including but not limited to the second, fifth, ninth,
18 tenth, and fourteenth amendments to the United States constitution and
19 section 11, article I, of the constitution of the state of Idaho; *United*
20 *States v. Lopez*, 514 U.S. 549 (1995); and *Printz v. United States*, 521
21 U.S. 898 (1997).

22 (b) The powers granted to congress in section 8, article I, of the
23 United States constitution, and in those amendments that purport to
24 grant congress power over the several states, are merely the means
25 by which the federal government may execute its limited powers under
26 that charter and should not be construed to grant any power that would
27 destroy the equilibrium of rights and powers that exists between the
28 federal and state governments and the people.

29 (c) Specifically, the state of Idaho reserves to itself the power to
30 protect the fundamental individual rights of its citizens and residents
31 to any degree greater than is protected by the United States constitu-
32 tion and its amendments and to do so in such a manner that this state and
33 its citizens believe is necessary and proper to secure their safety and
34 happiness.

35 (d) Included in that extra measure of protection, greater than what is
36 afforded by the United States constitution and its amendments, is the
37 right to keep and bear arms under the laws of Idaho and the constitution
38 of the state of Idaho. Any federal law, regulation, tax, license, per-
39 mit, fee, or assessment that would impose an undue burden on exercis-
40 ing this fundamental right is deemed to violate the constitution of the
41 state of Idaho.

1 (e) The people of Idaho have vested their legislature with the au-
2 thority to regulate the manufacture, possession, exchange, and use
3 of firearms within the borders of this state; said regulations being
4 governed by the lower limits protected by the second amendment of the
5 United States constitution, but also augmented by the additional rights
6 and privileges afforded under the constitution and laws of the state of
7 Idaho.

8 (f) The legislature of the state of Idaho strongly promotes responsible
9 gun ownership in the tradition of its founding, its history, and based
10 on the practical consequences of Idaho's landforms.

11 (3) As used in this section:

12 (a) "Federal action" shall include but not be limited to the acts of any
13 federal agent or official, any enforcement of any federal executive or-
14 der, the collection and enforcement of any federal tax, agency order,
15 law, statute, rule, or regulation issued, enacted, or promulgated on or
16 after the effective date of this section.

17 (b) "Small arms" shall include but not be limited to any self-loading
18 rifle, pistol, revolver, or shotgun; any manually loaded rifle, pistol,
19 revolver, or shotgun; any semiautomatic firearm, including any cen-
20 terfire rifle, pistol, and shotgun with a fixed magazine or detachable
21 magazine; and any detachable magazine of any capacity. The term "small
22 arms" shall not be limited by any design feature that does not convert
23 a firearm into a machine gun as that term was defined by federal law on
24 January 1, 2020.

25 (4) Prohibition on enforcement.

26 (a) No official, agent, or employee of the state of Idaho, or a polit-
27 ical subdivision thereof, shall be required to assist with any federal
28 action on or after the effective date of this section if such federal ac-
29 tion is contrary to the provisions of Idaho Code or section 11, article
30 I, of the constitution of the state of Idaho.

31 (b) Any such official agent or employee of the state, or its political
32 subdivisions, shall be immune from any liability, civil or criminal,
33 for failure to assist with any such enforcement.

34 (c) The provisions of this section shall be cumulative of sections
35 18-3315A and 18-3315B, Idaho Code. To the maximum extent possible, the
36 provisions of this section and sections 18-3315A and 18-3315B, Idaho
37 Code, shall be harmonized to provide the greatest possible protection
38 to the rights and privileges of Idaho's citizens and residents.

39 (5) Challenges by the attorney general.

40 (a) The attorney general shall challenge the enforcement of any federal
41 action if contrary to any provisions of section 11, article I, of the
42 constitution of the state of Idaho and any laws enacted under that sec-
43 tion.

44 (b) A challenge under paragraph (a) of this subsection may be brought in
45 any court within the state of Idaho for any federal action taken against
46 any resident of the state of Idaho, including but not limited to a chal-
47 lenge to any federal law, regulation, tax, levy, fee, or stamp imposed
48 on the items protected under this section.

49 (6) Right of intervention. The legislature, by concurrent resolution,
50 may appoint one (1) or more of its members who sponsored or cosponsored this

1 section in his official capacity or, if a member who sponsored or cosponsored
2 this section is no longer serving in the legislature, a current member to in-
3 tervene as a matter of right in any case in which the constitutionality of
4 this section is challenged in state or federal court. The right of interven-
5 tion shall arise only if the attorney general declines to defend this section
6 or defends this section on grounds that are inconsistent with its stated pur-
7 pose. Furthermore, appointment of outside legal counsel to defend this sec-
8 tion shall be at the sole discretion of the member appointed by the concur-
9 rent resolution and shall be conducted under existing rules and regulations
10 for the employment of outside counsel, for cases when the attorney general
11 has a conflict of interest.

12 (7) Severability. The provisions of this section are hereby declared
13 to be severable. If any provision of this section or the application of such
14 provision to any person or circumstance is declared invalid for any reason,
15 such declaration shall not affect the validity of the remaining portions of
16 this section.

17 SECTION 2. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after its
19 passage and approval.