

IN THE SENATE

SENATE BILL NO. 1205

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FIREARMS; PROVIDING A SHORT TITLE; PROVIDING LEGISLATIVE IN-  
2 TENT; AMENDING SECTION 18-3315B, IDAHO CODE, TO REVISE PROVISIONS RE-  
3 GARDING THE PROHIBITION OF REGULATION OF CERTAIN FIREARMS, TO PROHIBIT  
4 CERTAIN REGULATION OF FIREARMS, TO PROVIDE FOR ENFORCEABILITY, TO PRO-  
5 VIDE CERTAIN IMMUNITY FROM CIVIL LIABILITY, TO DEFINE TERMS, TO PROVIDE  
6 APPLICABILITY, AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABIL-  
7 ITY; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
8

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

10 SECTION 1. This act shall be known and may be cited as the "Idaho Firearm  
11 and Firearm Accessories and Components Protection Act."

12 SECTION 2. LEGISLATIVE INTENT. The Legislature of the State of Idaho  
13 hereby declares the right to keep and bear arms is necessary to the safety  
14 and security of the State of Idaho and its citizens, is essential to its  
15 citizens' fundamental right of self defense, and is a right that may not  
16 be unconstitutionally infringed by the United States, the State of Idaho,  
17 Idaho political subdivisions, or local government agencies. The State of  
18 Idaho retains the power to protect the fundamental rights of its citizens  
19 to any degree greater than is protected by the United States Constitution.  
20 It is the intent of the Legislature in enacting this act to protect and in-  
21 clude firearms, firearm accessories, and firearm components in protections  
22 provided in this act and to protect Idaho officials, agents, employees,  
23 and law enforcement officers from being directed, as a result of any exec-  
24 utive order, agency order, treaty, law, rule, or regulation of the federal  
25 government enacted on or after the effective date of this act, to violate  
26 their oath of office or violate the rights of Idaho citizens under Section  
27 11, Article I of the Constitution of the State of Idaho. It is further the  
28 intent of the Legislature in enacting this act to prohibit the expenditure  
29 of funds and use of personnel and resources by Idaho government entities  
30 to assist the federal government to implement any executive order, agency  
31 order, treaty, law, rule, or regulation enacted on or after the effective  
32 date of this act that violates Section 11, Article I of the Constitution of  
33 the State of Idaho. Section 11, Article I of the Constitution of the State of  
34 Idaho disallows confiscation of firearms except those actually used in the  
35 commission of a felony and disallows other restrictions on a citizen's law-  
36 ful right to own firearms and ammunition. It is the intent of the Legislature  
37 to oppose and not support the enactment and implementation of federal "red  
38 flag" laws, rules, regulations, and orders that violate Section 11, Article  
39 I of the Constitution of the State of Idaho. This act prohibits use of funds,  
40 resources, and personnel by government entities in Idaho to enforce or sup-  
41 port enforcement of an executive order, agency order, treaty, law, rule,  
42 or regulation of the federal government enacted on or after the effective

1 date of this act that violates Section 11, Article I of the Constitution of  
 2 the State of Idaho. This act is intended to augment and support the "Idaho  
 3 Federal Firearm, Magazine and Register Ban Enforcement Act" codified in  
 4 Section 33-1815B, Idaho Code, as enacted in 2014. The Legislature does not  
 5 intend to affect an Idaho law enforcement officer who assists federal agents  
 6 on drug or gang enforcement activities. The Idaho Legislature intends to  
 7 create the power to enforce this act through the Idaho Attorney General or  
 8 the Idaho Legislature. Idaho law enforcement officers are partners with  
 9 Idaho citizens in protecting the rights as outlined in both the United States  
 10 Constitution and the Constitution of the State of Idaho.

11 SECTION 3. That Section 18-3315B, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 18-3315B. PROHIBITION OF REGULATION OF CERTAIN FIREARMS. (1) Other  
 14 than compliance with an order of the court, any official, agent, or employee  
 15 of ~~the state of an Idaho or a political subdivision thereof~~ government entity  
 16 who knowingly and willfully orders an official, agent, or employee of ~~the~~  
 17 ~~state of an Idaho or a political subdivision of the state~~ government entity  
 18 to enforce any executive order, agency order, treaty, law, rule, or regula-  
 19 tion of the United States government as provided in subsection (2) of this  
 20 section upon a ~~personal~~ firearm, a firearm accessory, firearm component, or  
 21 ammunition shall, on a first violation, be liable for a civil penalty not to  
 22 exceed one thousand dollars (\$1,000), which shall be paid into the general  
 23 fund of the state, and on a second or subsequent violation shall be guilty of  
 24 a misdemeanor. If a public officer or person commits a violation of section  
 25 18-315 or ~~section~~ 18-703, Idaho Code, the public officer or person shall be  
 26 punished as provided in those sections. Nothing in this section shall be  
 27 construed to affect the law of search and seizure as set forth in section 17,  
 28 article I of the constitution of the state of Idaho or as set forth in the  
 29 fourth, fifth, and fourteenth amendments to the United States constitution.  
 30 Notwithstanding anything to the contrary contained elsewhere in this act, no  
 31 private cause of action exists under this section.

32 (2) No federal executive order, agency order, treaty, law, statute,  
 33 rule, or regulation issued, enacted, or promulgated on or after the effec-  
 34 tive date of this act, ~~shall will~~ be knowingly and willfully ordered to be en-  
 35 forced by any official, agent, or employee of ~~the state or a political subdivi-~~  
 36 ~~vision of the state~~ an Idaho government entity if contrary to the provisions  
 37 of section 11, article I, of the constitution of the state of Idaho.

38 (3) "Enforcement," "enforce," or "enforced" shall not be construed to  
 39 include the performance of any act solely for the purpose of facilitating  
 40 the transfer of firearms under federal law. Any order of enforcement not ex-  
 41 cluded by the provisions of this subsection that occurs on and after the ef-  
 42 fective date of this act shall be and is a breach of the oath of office of the  
 43 official, agent, or employee of the state or a political subdivision of the  
 44 state.

45 (4) All Idaho government entities are prohibited from using any person-  
 46 nel, funds, or other resources to enforce, administer, or support the en-  
 47 forcement of any executive order, agency order, treaty, law, rule, or regu-  
 48 lation of the United States government enacted or promulgated on or after the  
 49 effective date of this act upon a firearm, firearm component, firearm acces-

1 sory, or ammunition if contrary to the provisions of section 11, article I of  
2 the constitution of the state of Idaho.

3 (5) The provisions of this section may be enforced by the Idaho attorney  
4 general. The legislature of the state of Idaho may bring legal action for  
5 declaratory or injunctive relief to ensure compliance with the provisions of  
6 this section. The prevailing party in any such action may recover reasonable  
7 attorney's fees and costs from the nonprevailing party.

8 (6) With the exception of failure to comply with an order of the court,  
9 any official, agent, or employee of an Idaho government entity shall not be  
10 subject to civil liability for failure to enforce, support, or assist with  
11 the enforcement of any executive order, agency order, treaty, law, rule, or  
12 regulation of the United States government that is contrary to section 11,  
13 article I of the constitution of the state of Idaho or the second amendment to  
14 the United States constitution.

15 (7) As used in this section:

16 (a) "Firearm accessory" means an item that is used in conjunction with  
17 or mounted upon a firearm, including but not limited to telescopic or  
18 laser sights, magazines, flash or sound suppressors, folding or after-  
19 market stocks and grips, speedloaders, braces, ammunition, ammunition  
20 carriers, and lights for target illumination.

21 (b) "Firearm component" means a component for making firearms, a compo-  
22 nent for making ammunition, reloading materials and equipment, machin-  
23 ery, design plans, software, and tools for manufacturing firearms and  
24 their ammunition.

25 (c) "Idaho government entity" means the state of Idaho and its depart-  
26 ments and agencies and any political subdivision of the state of Idaho  
27 and other local government entities and agencies.

28 (8) Nothing in this "Idaho Firearm and Firearm Accessories and Compo-  
29 ponents Protection Act" is intended nor shall be construed to replace or change  
30 the effective date or protections provided by the "Idaho Federal Firearm,  
31 Magazine and Register Ban Enforcement Act" as enacted in 2014 and that cre-  
32 ated this section. To the maximum extent possible, this "Idaho Firearm and  
33 Firearm Accessories and Components Protection Act" is intended to add to  
34 and expand upon the protections provided by the 2014 act and to provide the  
35 greatest possible protection to the rights of Idaho citizens.

36 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
37 to be severable and if any provision of this act or the application of such  
38 provision to any person or circumstance is declared invalid for any reason,  
39 such declaration shall not affect the validity of the remaining portions of  
40 this act.

41 SECTION 5. An emergency existing therefor, which emergency is hereby  
42 declared to exist, this act shall be in full force and effect on and after its  
43 passage and approval, and retroactively to January 20, 2021.