

Moved by Moyle

Seconded by Monks

IN THE HOUSE OF REPRESENTATIVES
HOUSE AMENDMENT TO S.B. NO. 1133, As Amended

AMENDMENT TO THE BILL

1
2 On page 1 of the engrossed bill, delete lines 10 through 40; and delete
3 pages 2 through 4, and insert:

4 "SECTION 1. SHORT TITLE. This act shall be known and may be cited as the
5 "Idaho Federal Firearm, Magazine and Register Ban Enforcement Act."

6 SECTION 2. LEGISLATIVE DECLARATION. The Legislature of the State of Idaho
7 declares in connection with Section 18-3315A, Idaho Code:

8 The Tenth Amendment to the United States Constitution guarantees to
9 the states and their people all powers not granted to the federal govern-
10 ment elsewhere in the Constitution and reserves to the state and the people
11 of Idaho certain powers as they were understood at the time that Idaho was
12 admitted to statehood in 1890. The guaranty of those powers is a matter of
13 contract between the state and people of Idaho and the United States as of the
14 time that the compact with the United States was agreed upon and adopted by
15 Idaho and the United States.

16 The Ninth Amendment to the United States Constitution guarantees to the
17 people rights not granted in the Constitution and reserves to the people of
18 Idaho certain rights as they were understood at the time that Idaho was ad-
19 mitted to statehood in 1890. The guaranty of those powers is a matter of con-
20 tract between the state and people of Idaho and the United States as of the
21 time that the compact with the United States was agreed upon and adopted by
22 Idaho and the United States.

23 The regulation of intrastate commerce is vested in the states under the
24 Ninth and Tenth Amendments to the United States Constitution, particularly
25 if not expressly preempted by federal law. Congress has not expressly pre-
26 empted state regulation of intrastate commerce pertaining to the manufac-
27 ture on an intrastate basis of firearms, firearms accessories and ammuni-
28 tion.

29 The Second Amendment to the United States Constitution reserves to the
30 people the right to keep and bear arms as that right was understood at the
31 time that Idaho was admitted to statehood in 1890, and the guaranty of the
32 right is a matter of contract between the state and people of Idaho and the
33 United States as of the time that the compact with the United States was
34 agreed upon and adopted by Idaho and the United States.

35 Section 11, article I, of the Idaho Constitution clearly secures and
36 prohibits government interference with the right of individual Idaho citi-
37 zens to keep and bear arms. This constitutional protection is unchanged from
38 the 1890 Idaho Constitution, which was approved by Congress and the people of
39 Idaho, and the right exists as it was understood at the time that the compact

1 with the United States was agreed upon and adopted by Idaho and the United
2 States in 1890.

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

5 18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1)
6 As used in this section:

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

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

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

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

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

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

1 (4) If the manufacture, transfer, possession or ownership of any
 2 firearm or firearm accessory is prohibited by a federal law or executive
 3 order that becomes effective on or after March 1, 2013, then such firearm
 4 or firearm accessory is deemed unavailable as a result of such federal law
 5 or executive order. Any firearm or firearm accessory that is subject to
 6 any such federal law or executive order, but which is manufactured in Idaho
 7 and remains within the borders of Idaho, is not subject to the authority of
 8 Congress to regulate under its commerce power because of the federal pro-
 9 hibition against such firearm or firearm accessory in interstate commerce.
 10 Therefore, any firearm or firearm accessory federally prohibited by law or
 11 order that becomes effective on or after March 1, 2013, under the authority
 12 of Congress to regulate interstate commerce may be manufactured, trans-
 13 ferred, possessed or owned within the borders of Idaho.

14 (5) Subsections (2), ~~and (3)~~ and (4) of this section do not apply to:

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

16 (b) A firearm that has a bore diameter greater than one and one-half
 17 (1 1/2) inches and that uses smokeless powder, not black powder, as a
 18 propellant;

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

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

23 ~~(5) In order to be afforded the protections set forth in subsections~~
 24 ~~(2) and (4) of this section, a~~ A firearm or firearm accessory manufactured or
 25 sold in Idaho under this section shall have the words "Made in Idaho" clearly
 26 stamped on a central ~~metallie part, such as the receiver or frame.~~

27 ~~(6) This section applies to firearms, firearms accessories and ammu-~~
 28 ~~nition that are manufactured as defined in subsection (1) and retained in~~
 29 Idaho after October 1, 2010.

30 SECTION 4. That Chapter 33, Title 18, Idaho Code, be, and the same is
 31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 32 ignated as Section 18-3315B, Idaho Code, and to read as follows:

33 18-3315B. PROHIBITION OF REGULATION OF CERTAIN FIREARMS. (1) Any of-
 34 ficial, agent or employee of the state of Idaho or a political subdivision
 35 thereof who knowingly and willfully enforces or orders an official, agent or
 36 employee of the state of Idaho or a political subdivision of the state to en-
 37 force any order, law, rule or regulation of the United States government as
 38 provided in subsection (2) of this section upon a personal firearm, a firearm
 39 accessory or ammunition that is owned or manufactured commercially or pri-
 40 vately in Idaho shall be guilty of a misdemeanor and shall be subject to a
 41 fine of not less than fifty dollars (\$50.00) nor more than one thousand dol-
 42 lars (\$1,000), shall be subject to imprisonment for a period not to exceed
 43 one (1) year, or shall be subject to both such fine and imprisonment.

44 (2) No federal order, law, rule or regulation issued, enacted or pro-
 45 mulgated on or after January 1, 2013, shall be knowingly or willfully en-
 46 forced by any agent of the state or a political subdivision of the state if,
 47 contrary to the provisions of section 11, article I, of the constitution of
 48 the state of Idaho, such order, law, rule or regulation:

- 1 (a) Bans or restricts ownership of a semiautomatic firearm or any maga-
2 zine of a firearm; or
3 (b) Requires any firearm, magazine or other firearm accessory to be
4 registered in any manner.
5 (3) "Enforcement" shall not be construed to include the performance of
6 any act solely for the purpose of facilitating the transfer of firearms under
7 federal law.

8 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
9 to be severable and if any provision of this act or the application of such
10 provision to any person or circumstance is declared invalid for any reason,
11 such declaration shall not affect the validity of the remaining portions of
12 this act.

13 SECTION 6. An emergency existing therefor, which emergency is hereby de-
14 clared to exist, this act shall be in full force and effect on and after its
15 passage and approval, and retroactively to January 1, 2013."

16 CORRECTION TO TITLE
17 On page 1, delete lines 2 through 8, and insert:
18 "RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; PROVIDING
19 A SHORT TITLE; PROVIDING LEGISLATIVE DECLARATION; AMENDING SECTION
20 18-3315A, IDAHO CODE, TO REVISE AND TO ESTABLISH ADDITIONAL PROVISIONS
21 RELATING TO THE PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS;
22 AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
23 TION 18-3315B, IDAHO CODE, TO PROVIDE CERTAIN PROHIBITED ACTS REGARDING
24 FIREARMS BY PUBLIC EMPLOYEES AND OFFICERS OF GOVERNMENTAL ENTITIES, TO
25 PROVIDE PENALTIES, TO ESTABLISH THAT CERTAIN LAWS ARE UNENFORCEABLE IN
26 IDAHO BY STATE AND LOCAL GOVERNMENT OFFICIALS, AGENTS OR EMPLOYEES AND
27 TO DEFINE A TERM; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND
28 PROVIDING RETROACTIVE APPLICATION."