

1 SB43  
2 145182-1  
3 By Senators Allen, Ward, Waggoner, Smith and Fielding  
4 RFD: Judiciary  
5 First Read: 05-FEB-13  
6 PFD: 01/09/2013

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8 SYNOPSIS: This bill would exempt from federal  
9 regulation under the Commerce Clause of the United  
10 States Constitution a firearm, a firearm accessory,  
11 or ammunition manufactured and retained within the  
12 borders of Alabama.

13 This bill would also exclude certain  
14 firearms and ammunition from this act.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to firearms, firearm accessories, and  
21 ammunition manufactured and retained within the borders of  
22 Alabama; to exempt from federal regulation under the Commerce  
23 Clause of the United States Constitution a firearm, a firearm  
24 accessory, or ammunition manufactured and retained in this  
25 state; and to exclude certain firearms and ammunition from  
26 this act.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known and may be cited  
2 as the Alabama Firearms Freedom Act.

3           Section 2. The Legislature finds all of the  
4 following:

5           (1) The Tenth Amendment to the United States  
6 Constitution guarantees to the states and their people all  
7 powers not granted to the federal government elsewhere in the  
8 Constitution or prohibited by the Constitution to the states,  
9 and reserves to the State of Alabama and its people certain  
10 powers as they were understood at the time that Alabama was  
11 admitted to statehood in 1819. The guaranty of those powers is  
12 a matter of contract between the State of Alabama and its  
13 people and the United States as of the time that the compact  
14 with the United States was agreed upon and adopted by Alabama  
15 and the United States in 1819.

16           (2) The Ninth Amendment to the United States  
17 Constitution guarantees to the people that the enumeration of  
18 certain rights in the Constitution does not deny other rights  
19 not expressly granted in the Constitution and reserves to the  
20 people of Alabama certain rights as they were understood at  
21 the time that Alabama was admitted to statehood in 1819. The  
22 guaranty of those rights is a matter of contract between the  
23 State of Alabama and its people and the United States as of  
24 the time that the compact with the United States was agreed  
25 upon and adopted by Alabama and the United States in 1819.

26           (3) The regulation of intrastate commerce is vested  
27 in the states under the Ninth and Tenth Amendments to the

1 United States Constitution, particularly if not expressly  
2 preempted by federal law. Congress has not expressly preempted  
3 state regulation of intrastate commerce pertaining to the  
4 manufacture on an intrastate basis of firearms, firearm  
5 accessories, and ammunition.

6 (4) The Second Amendment to the United States  
7 Constitution reserves to the people the right to keep and bear  
8 arms as that right was understood at the time that Alabama was  
9 admitted to statehood in 1819. The guaranty of that right is a  
10 matter of contract between the State of Alabama and its people  
11 and the United States as of the time that the compact with the  
12 United States was agreed upon and adopted by Alabama and the  
13 United States in 1819.

14 (5) Section 26 of the Official Recompilation of the  
15 Constitution of Alabama of 1901, as amended, secures to  
16 Alabama citizens, and prohibits government interference with,  
17 the right of an individual Alabama citizen to bear arms in  
18 defense of himself or herself and the state. This  
19 constitutional protection is unchanged from the Alabama  
20 Constitution of 1819, which was approved by Congress, and the  
21 right exists as it was understood at the time that the compact  
22 with the United States was agreed upon and adopted by Alabama  
23 and the United States in 1819.

24 Section 3. For the purposes of this act, the  
25 following words shall have the following meanings:

1 (1) BORDERS OF ALABAMA. The boundaries of Alabama as  
2 described in Section 37 of the Official ReCompilation of the  
3 Constitution of Alabama of 1901, as amended.

4 (2) FIREARM ACCESSORIES. Items that are used in  
5 conjunction with or mounted upon a firearm but are not  
6 essential to the basic function of a firearm, including, but  
7 not limited to, telescopic or laser sights, magazines, flash  
8 or sound suppressors, folding or aftermarket stocks and grips,  
9 speedloaders, ammunition carriers, and lights for target  
10 illumination.

11 (3) GENERIC AND INSIGNIFICANT PARTS. Includes, but  
12 is not limited to, springs, screws, nuts, and pins.

13 (4) MANUFACTURED. A firearm, a firearm accessory, or  
14 ammunition that has been created from basic materials for  
15 functional usefulness, including, but not limited to, forging,  
16 casting, machining, or other processes for working materials.

17 Section 4. (a) A personal firearm, a firearm  
18 accessory, or ammunition that is manufactured commercially or  
19 privately in this state and that remains within the borders of  
20 Alabama is not subject to federal law or federal regulation,  
21 including registration, under the authority of Congress to  
22 regulate interstate commerce, because those items have not  
23 traveled in interstate commerce.

24 (b) This act applies to a firearm, a firearm  
25 accessory, or ammunition that is manufactured in this state  
26 from basic materials and that can be manufactured without the

1 inclusion of any significant parts imported from another  
2 state.

3 (c) Generic and insignificant parts that have other  
4 manufacturing or consumer product applications are not  
5 firearms, firearm accessories, or ammunition, and their  
6 importation into Alabama and incorporation into a firearm, a  
7 firearm accessory, or ammunition manufactured in this state  
8 does not subject the firearm, firearm accessory, or ammunition  
9 to federal regulation.

10 (d) Basic materials, such as unmachined steel and  
11 unshaped wood, are not firearms, firearm accessories, or  
12 ammunition and are not subject to Congressional authority to  
13 regulate firearms, firearm accessories, and ammunition under  
14 interstate commerce as if they were actually firearms, firearm  
15 accessories, or ammunition.

16 (e) The authority of Congress to regulate interstate  
17 commerce in basic materials does not include authority to  
18 regulate firearms, firearm accessories, and ammunition made in  
19 this state from those materials.

20 (f) Firearm accessories that are imported into this  
21 state from another state and that are subject to federal  
22 regulation as being in interstate commerce do not subject a  
23 firearm to federal regulation under interstate commerce  
24 because they are attached to or used in conjunction with a  
25 firearm manufactured in this state.

26 Section 5. This act shall not apply to any of the  
27 following:

1                   (1) A firearm that cannot be carried and used by one  
2 person.

3                   (2) A firearm that has a bore diameter greater than  
4 one and one-half inches and that uses smokeless powder, not  
5 black powder, as a propellant.

6                   (3) Ammunition with a projectile that explodes using  
7 an explosion of chemical energy after the projectile leaves  
8 the firearm.

9                   (4) A firearm that discharges two or more  
10 projectiles with one activation of the trigger or other firing  
11 device.

12                   Section 6. A firearm manufactured or sold in this  
13 state under this act must have the words "Made in Alabama"  
14 clearly stamped on a central metallic part, such as the  
15 receiver or frame.

16                   Section 7. This act shall apply to firearms, firearm  
17 accessories, and ammunition that are manufactured, pursuant to  
18 this act, and retained in this state on or after October 1,  
19 2013.

20                   Section 8. This act shall become effective on the  
21 first day of the third month following its passage and  
22 approval by the Governor, or its otherwise becoming law.