

Regular Session, 2010

SENATE BILL NO. 152

BY SENATOR ADLEY

WEAPONS. Enacts the Louisiana Firearms Freedom Act.

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AN ACT

To enact R.S. 40:1796.1; relative to the right to keep and bear arms; to provide for firearms which are manufactured in Louisiana and which remain in Louisiana; to provide for legislative intent; to provide for definitions; to provide for prohibitions against certain regulations; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1796.1 is hereby enacted to read as follows:

§1796.1 The Louisiana Firearms Freedom Act

A. Legislative intent and authority. The legislature declares that the authority for this Section is as follows:

(1) The Tenth Amendment of the Constitution of the United States of America declares that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Issues regarding firearms were never delegated to the federal government by the states and, thus, are reserved to the people of Louisiana.

(2) The Second Amendment of the Constitution of the United States of

1 America declares that "A well regulated Militia, being necessary to the security
2 of a free State, the right of the people to keep and bear Arms, shall not be
3 infringed."

4 (3) The Ninth Amendment of the Constitution of the United States of
5 America declares that "The enumeration in the Constitution, of certain rights,
6 shall not be construed to deny or disparage others retained by the people."

7 (4) Article I, Section 11 of the Constitution of Louisiana protects the
8 right of each Louisiana citizen to keep and bear arms and declares that this
9 right shall not be abridged.

10 (5) While the Article I, Section 8 of the Constitution of the United States
11 of America declares that "The Congress shall have Power To. . . regulate
12 Commerce with foreign Nations, and among the several States, and with the
13 Indian Tribes." The power to regulate commerce within the sovereign borders
14 of Louisiana were never delegated to the federal government; therefore, only
15 the state of Louisiana can regulate intrastate commerce in Louisiana.

16 (6) Basic materials, such as unmachined steel and unshaped wood, are
17 not firearms, firearms' accessories, or ammunition and are not subject to
18 congressional authority to regulate firearms, firearms' accessories, and
19 ammunition under interstate commerce as if they were actually firearms,
20 firearms' accessories, or ammunition.

21 (7) The authority of congress to regulate interstate commerce in basic
22 materials does not include authority to regulate firearms, firearms' accessories
23 and ammunition made in Louisiana from those materials.

24 (8) Firearms' accessories that are imported into Louisiana from another
25 state and that are subject to federal regulation as being in interstate commerce
26 do not subject a firearm to federal regulation under interstate commerce
27 because they are attached to or used in conjunction with a firearm in Louisiana.

28 B. Definitions. As used in this Section, the following definitions shall
29 apply:

1 **(1) "Firearms' accessories" means items that are used in conjunction**
2 **with or mounted upon a firearm but are not essential to the basic function of a**
3 **firearm, including but not limited to telescopic or laser sights, magazines, flash**
4 **or sound suppressors, folding or aftermarket stocks and grips, speedloaders,**
5 **ammunition carriers, and lights for target illumination.**

6 **(2) "Generic and insignificant parts" include, but are not limited to,**
7 **springs, screws, nuts, and pins.**

8 **(3) "Manufactured" means that a firearm, a firearm accessory, or**
9 **ammunition has been created from basic materials for functional usefulness,**
10 **including but not limited to forging, casting, machining, or other processes for**
11 **working materials.**

12 **C. Regulation over firearms.**

13 **(1) A personal firearm, a firearm accessory, or ammunition that is**
14 **manufactured commercially or privately in Louisiana and that remains within**
15 **the borders of Louisiana is not subject to federal law or federal regulation,**
16 **including registration, under the authority of congress to regulate interstate**
17 **commerce. It is declared by the legislature that those items have not traveled**
18 **in interstate commerce.**

19 **(2) Generic and insignificant parts that have other manufacturing or**
20 **consumer product applications are not firearms, firearms' accessories, or**
21 **ammunition, and their importation into Louisiana and incorporation into a**
22 **firearm, a firearm accessory, or ammunition manufactured in Louisiana does**
23 **not subject the firearm, firearm accessory, or ammunition to federal regulation.**

24 **D. Exceptions. The provisions of this Section shall not apply to any of**
25 **the following:**

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

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

29 **(3) Ammunition with a projectile that explodes using an explosion of**

1 chemical energy after the projectile leaves the firearm.

2 (4) Other than shotguns, a firearm that discharges two or more
3 projectiles with one activation of the trigger or other firing device.

4 E. Marketing of firearms. A firearm manufactured or sold in Louisiana,
5 pursuant to the provisions of this Section, shall have the words "Made in
6 Louisiana" clearly stamped on a central metallic part of the firearm, such as the
7 receiver or frame.

8 F. Applicability.

9 (1) This Section shall apply to a firearm, a firearm accessory, or
10 ammunition that is manufactured in Louisiana from basic materials and that
11 can be manufactured without the inclusion of any significant parts imported
12 from another state.

13 (2) This Section applies to firearms, firearms' accessories, and
14 ammunition that are manufactured, pursuant to the provisions of this Section,
15 and retained in Louisiana after August 15, 2010.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Proposed law provides the following legislative intent and authority:

- A. The 10th Amendment to the U.S. Constitution declares that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Issues regarding firearms were never delegated to the federal government by the states and, thus, are reserved to the people of Louisiana.
- B. The 2nd Amendment to the U.S. Constitution declares that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."
- C. The 9th Amendment of the Constitution of the United States of America declares that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."
- D. Article I, Section 11 of the La. Constitution protects the right of each Louisiana citizen to keep and bear arms and declares that this right shall not be abridged.
- E. While the Commerce Clause in the U.S. declares that "The Congress shall have Power To. . . regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." The power to regulate commerce within the sovereign

borders of Louisiana were never delegated to the federal government; therefore, only the state of Louisiana can regulate the intrastate commerce in Louisiana.

- F. It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms' accessories, or ammunition and are not subject to congressional authority to regulate firearms, firearms' accessories, and ammunition under interstate commerce as if they were actually firearms, firearms' accessories, or ammunition.
- G. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms' accessories, and ammunition made in Louisiana from those materials. Firearms' accessories that are imported into Louisiana from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Louisiana.

Proposed law provides for the following definitions:

- (1) "Firearms' accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.
- (2) "Generic and insignificant parts," include but is not limited, to springs, screws, nuts, and pins.
- (3) "Manufactured" means that a firearm, a firearm accessory, or ammunition has been created from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

Proposed law provides that a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Louisiana and that remains within the borders of Louisiana is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce.

Proposed law provides that generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms' accessories, or ammunition, and their importation into Louisiana and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Louisiana does not subject the firearm, firearm accessory, or ammunition to federal regulation

Proposed law provides for the following exceptions:

- A. A firearm that cannot be carried and used by one person.
- B. A firearm that has a bore diameter greater than 1½ inches and that uses smokeless powder, not black powder, as a propellant.
- C. Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.
- D. Other than shotguns, a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

Proposed law provides that the firearm must be stamped "Made in Louisiana."

Proposed law provides that this Section applies to a firearm, a firearm accessory, or ammunition that is manufactured in Louisiana from basic materials and that can be manufactured without the inclusion of any significant parts from another state.

Proposed law provides that this shall apply to firearms, firearms' accessories, and ammunition that are manufactured in Louisiana and is retained in Louisiana after August 15, 2010.

Effective August 15, 2010.

(Adds R.S. 40:1796.1)