

By Senator Baker

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1 A bill to be entitled
2 An act relating to the regulation of firearms;
3 creating s. 790.34, F.S.; creating the Florida
4 Firearms Freedom Act; providing a short title;
5 providing legislative findings; providing definitions;
6 providing that specified firearms, firearm
7 accessories, and ammunition for personal use
8 manufactured in the state are not subject to federal
9 law or regulation; providing that the importation into
10 the state of specified parts and the incorporation of
11 such parts into a firearm, firearm accessory, or
12 ammunition manufactured in the state does not subject
13 the firearm, firearm accessory, or ammunition to
14 federal regulation; providing that certain basic
15 materials are not subject to federal regulation of
16 firearms, firearm accessories, or ammunition under
17 interstate commerce; providing that specified firearm
18 accessories imported into the state from another state
19 do not subject a firearm to federal regulation under
20 interstate commerce; providing legislative findings
21 with respect thereto; providing exceptions; providing
22 applicability; requiring that firearms manufactured
23 and sold in the state bear an indicia of manufacture
24 by a specified date; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 790.34, Florida Statutes, is created to
29 read:

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30 790.34 Florida Firearms Freedom Act.—

31 (1) SHORT TITLE.—This section may be cited as the “Florida
32 Firearms Freedom Act.”

33 (2) LEGISLATIVE FINDINGS.—

34 (a) The Tenth Amendment to the United States Constitution
35 guarantees to the states and their citizens all powers not
36 granted to the Federal Government elsewhere in the constitution
37 and reserves to the State of Florida and its citizens certain
38 powers as they were understood at the time that Florida was
39 admitted to statehood in 1845. The guaranty of those powers is a
40 matter of contract between the State of Florida and the citizens
41 thereof and the United States as of the time that the compact
42 with the United States was agreed upon and adopted by Florida
43 and the United States in 1845.

44 (b) The Ninth Amendment to the United States Constitution
45 guarantees to the people rights not enumerated in the
46 constitution and reserves to the State of Florida and its
47 citizens certain rights as they were understood at the time that
48 Florida was admitted to statehood in 1845. The guaranty of those
49 powers is a matter of contract between the State of Florida and
50 the citizens thereof and the United States as of the time that
51 the compact with the United States was agreed upon and adopted
52 by Florida and the United States in 1845.

53 (c) The regulation of intrastate commerce is vested in the
54 states under the Ninth Amendment and the Tenth Amendment to the
55 United States Constitution, particularly if not expressly
56 preempted by federal law. Congress has not expressly preempted
57 state regulation of intrastate commerce pertaining to the
58 intrastate manufacture of firearms, firearm accessories, and

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59 ammunition.

60 (d) The Second Amendment to the United States Constitution
61 reserves to the people the right to keep and bear arms as that
62 right was understood at the time that Florida was admitted to
63 statehood in 1845. The guaranty of that right is a matter of
64 contract between the State of Florida and its citizens and the
65 United States as of the time that the compact with the United
66 States was agreed upon and adopted by Florida and the United
67 States in 1845.

68 (e) Section 8, Article I of the State Constitution clearly
69 secures to the citizens of Florida, and prohibits government
70 interference with, the right of individual Florida citizens to
71 keep and bear arms. This constitutional protection remains
72 unchanged from the original Florida Constitution, which was
73 approved by Congress and the people of Florida, and the right
74 exists as it was understood at the time that the compact with
75 the United States was agreed upon and adopted by Florida and the
76 United States in 1845.

77 (3) DEFINITIONS.—As used in this section:

78 (a) "Basic materials" means raw materials, including, but
79 not limited to, unmachined steel and unshaped wood, used in the
80 creation and manufacture of firearms, firearm accessories, or
81 ammunition that have manufacturing or consumer product
82 applications other than applications in the manufacture of
83 firearms, firearm accessories, or ammunition.

84 (b) "Borders of Florida" means the boundaries of Florida as
85 described in s. 1, Art. II of the State Constitution.

86 (c) "Firearm accessories" means items that are used in
87 conjunction with or mounted on a firearm but are not essential

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88 to the basic function of a firearm, including, but not limited
89 to, telescopic or laser sights, magazines, flash suppressors,
90 folding or aftermarket stocks and grips, speed-loaders,
91 ammunition carriers, and lights for target illumination.

92 (d) "Generic and insignificant parts" includes, but is not
93 limited to, springs, screws, nuts, and pins that may be used in
94 the manufacture of firearms, firearm accessories, or ammunition
95 but that have manufacturing or consumer product applications
96 other than applications in the manufacture of firearms, firearm
97 accessories, or ammunition.

98 (e) "Manufactured" means the creation of a firearm, a
99 firearm accessory, or ammunition from basic materials for
100 functional usefulness, including, but not limited to, forging,
101 casting, machining, or any other processes used to form
102 materials used in the creation of firearms, firearm accessories,
103 or ammunition.

104 (4) FIREARMS, FIREARM ACCESSORIES, AND AMMUNITION FOR
105 PERSONAL USE MANUFACTURED AND REMAINING IN FLORIDA NOT SUBJECT
106 TO FEDERAL LAW OR REGULATION; LEGISLATIVE FINDINGS.—

107 (a)1. It is the finding of the Legislature that a firearm,
108 firearm accessory, or ammunition for personal use that is
109 manufactured commercially or privately in Florida from basic
110 materials without the inclusion of any significant parts
111 imported from another state and that remains within the borders
112 of Florida is not considered to have traveled in interstate
113 commerce.

114 2. A firearm, firearm accessory, or ammunition that:
115 a. Is for personal use;
116 b. Is manufactured commercially or privately in Florida

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117 from basic materials without the inclusion of any significant
118 parts imported from another state;

119 c. With respect to a firearm, has the words "Made in
120 Florida" clearly stamped on a central metallic part of the
121 firearm, such as the receiver or frame; and

122 d. Remains within the borders of Florida

123
124 is not subject to federal law or federal regulation, including
125 registration, under the authority of Congress to regulate
126 interstate commerce.

127 (b)1. It is the finding of the Legislature that generic and
128 insignificant parts that may be used in the manufacture of
129 firearms, firearm accessories, or ammunition but that have
130 manufacturing or consumer product applications other than
131 applications in the manufacture of firearms, firearm
132 accessories, or ammunition are not considered to be firearms,
133 firearm accessories, or ammunition.

134 2. The importation into the state of generic and
135 insignificant parts that may be used in the manufacture of
136 firearms, firearm accessories, or ammunition but that have
137 manufacturing or consumer product applications other than
138 applications in the manufacture of firearms, firearm
139 accessories, or ammunition, and the incorporation of such parts
140 into a firearm, firearm accessory, or ammunition manufactured in
141 the state, does not subject the firearm, firearm accessory, or
142 ammunition to federal regulation.

143 (c)1. It is the finding of the Legislature that basic
144 materials, such as unmachined steel and unshaped wood, that may
145 be used in the manufacture of firearms, firearm accessories, or

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146 ammunition but that have manufacturing or consumer product
147 applications other than applications in the manufacture of
148 firearms, firearm accessories, or ammunition are not considered
149 to be firearms, firearm accessories, or ammunition.

150 2. Basic materials, such as unmachined steel and unshaped
151 wood, that may be used in the manufacture of firearms, firearm
152 accessories, or ammunition but that have manufacturing or
153 consumer product applications other than applications in the
154 manufacture of firearms, firearm accessories, or ammunition are
155 not subject to congressional authority to regulate firearms,
156 firearm accessories, or ammunition under interstate commerce as
157 if such basic materials were actually firearms, firearm
158 accessories, or ammunition.

159 3. The authority of Congress to regulate interstate
160 commerce in basic materials does not include the authority to
161 regulate firearms, firearm accessories, and ammunition that are
162 manufactured in the state from basic materials and that remain
163 within the state.

164 (d) Firearm accessories that are imported into the state
165 from another state and that are subject to federal regulation as
166 being in interstate commerce do not subject a firearm to federal
167 regulation under interstate commerce by virtue of being attached
168 to or used in conjunction with a firearm in Florida.

169 (5) EXCEPTIONS.—This section does not apply to:

170 (a) A firearm that cannot be carried and used by one
171 person.

172 (b) A firearm that has a bore diameter greater than 1 1/2
173 inches and that uses smokeless powder, rather than black powder,
174 as a propellant.

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175 (c) Armor-piercing or exploding ammunition or dragon's
176 breath shotgun shells, bolo shells, or flechette shells.

177 (d) A firearm that discharges two or more cartridges or
178 shotgun shells with one activation of the trigger or other
179 firing device.

180 (6) APPLICABILITY.—This section applies to firearms,
181 firearm accessories, and ammunition described in subparagraph
182 (4) (a)2. which are manufactured in Florida after October 1,
183 2010, and remain within the state.

184 (7) FIREARMS MANUFACTURED IN FLORIDA; INDICIA OF
185 MANUFACTURE REQUIRED.—Effective October 1, 2010, a firearm
186 manufactured and sold in this state must have the indicia "Made
187 in Florida" clearly stamped on a central metallic part of the
188 firearm, such as the receiver or frame.

189 Section 2. This act shall take effect October 1, 2010.