SENATE BILL No. 291

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-16.

Synopsis: Indiana firearms freedom act. Provides that a firearm, a firearm accessory, or ammunition that: (1) is manufactured commercially or privately in Indiana from basic materials; (2) can be manufactured without the inclusion of any significant parts imported from another state; and (3) remains within the borders of Indiana; is not subject to federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce.

Effective: July 1, 2011.

Tomes, Kruse

January 6, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 291

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-47-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 16. Indiana Firearms Freedom Act

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to firearms, firearm accessories, and ammunition that are:

(1) manufactured in Indiana:

(A) from basic materials; and

(B) without the inclusion of any significant parts imported from another state; and

(2) retained in Indiana;

after October 1, 2011.

(b) This chapter does not apply to the following:

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

(2) A firearm that:

(A) has a bore diameter greater than one and one-half (1.5)

inches; and

(B) uses smokeless powder and not black powder as a propellant.

(3) A firearm that discharges at least two (2) projectiles with one (1) activation of the trigger or other firing device.

(4) Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.

Sec. 2. As used in this chapter, "borders of Indiana" means the boundaries of Indiana described in Article 14, Section 1 of the 1851 Constitution of the State of Indiana.

Sec. 3. (a) As used in this chapter, "firearm accessory" means an item that is:

(1) used in conjunction with or mounted upon; and

(2) not essential to the basic function of;

a firearm.

(b) The term includes telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.

Sec. 4. As used in this chapter, "generic and insignificant part" includes a spring, screw, nut, or pin.

Sec. 5. (a) As used in this chapter, "manufacture" means to create a firearm, a firearm accessory, or ammunition from basic materials for functional usefulness.

(b) The term includes forging, casting, machining, or another process used for working basic materials.

Sec. 6. (a) A firearm, a firearm accessory, or ammunition that:

(1) is manufactured commercially or privately in Indiana; and

(2) remains within the borders of Indiana;

is not subject to federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce. The general assembly declares that ammunition, firearms, or firearm accessories described in this subsection have not traveled in interstate commerce.

(b) A generic and insignificant part:

(1) used to manufacture a firearm, a firearm accessory, or ammunition; and

(2) that has manufacturing or consumer product applications in addition to its use in manufacturing firearms, firearm accessories, or ammunition;

is not a firearm, a firearm accessory, or ammunition, and its

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importation into Indiana and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Indiana does not subject the firearm, firearm accessory, or ammunition to federal regulation.

(c) The general assembly declares that basic materials used to manufacture a firearm, a firearm accessory, or ammunition, including unmachined steel and unshaped wood, are not:

(1) firearms, firearm accessories, or ammunition; and

(2) subject to the authority of the United States Congress to regulate firearms, firearm accessories, and ammunition under interstate commerce as if the basic materials were firearms, firearm accessories, or ammunition.

The authority of the United States Congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearm accessories, and ammunition made in Indiana from the basic materials described in this subsection.

(d) A firearm accessory that is:

(1) imported into Indiana from another state;

(2) attached to or used in conjunction with a firearm in Indiana; and

(3) subject to federal regulation as being in interstate commerce;

does not subject a firearm to federal regulation under interstate commerce because the firearm accessory is attached to or used in conjunction with a firearm in Indiana.

Sec. 7. A firearm described in section 1(a) of this chapter must have the words "Made in Indiana" clearly stamped on a central metallic part, such as the receiver or frame of the firearm, to be subject to this chapter.

Sec. 8. The general assembly declares that the authority for enforcing this chapter is derived from the following:

(1) The Tenth Amendment to the Constitution of the United States:

(A) guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution of the United States; and

(B) reserves to the state and people of Indiana certain powers as they were understood at the time that Indiana was admitted to statehood in 1816.

The guaranty of those powers is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon

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and adopted by Indiana and the United States in 1816.

(2) The Ninth Amendment to the Constitution of the United States:

(A) guarantees to the people rights not granted in the Constitution of the United States; and

(B) reserves to the people of Indiana certain rights as they were understood at the time that Indiana was admitted to statehood in 1816.

The guaranty of those rights is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

(3) The regulation of intrastate commerce is vested in the states under the Ninth Amendment and Tenth Amendment to the Constitution of the United States, particularly if not expressly preempted by federal law. The United States Congress has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearm accessories, and ammunition.

(4) The Second Amendment to the Constitution of the United States reserves to the people the right to keep and bear arms as that right was understood at the time that Indiana was admitted to statehood in 1816, and the guaranty of the right is a matter of contract between the state and people of Indiana and the United States as of the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

(5) Article 1, Section 32 of the 1851 Constitution of the State of Indiana clearly secures to Indiana citizens the right of individual Indiana citizens to keep and bear arms. This constitutional protection is unchanged from Article 1, Section 20 of the 1816 Constitution of the State of Indiana, which was approved by the United States Congress and the people of Indiana, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Indiana and the United States in 1816.

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