

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 435

HOUSE BILL NO. 1796

By Representatives West, Fincher, Evans, Carr, Bell, Eldridge, Todd, Faulkner, Matheny, Rich, Hensley, Hill, Campfield, Weaver, Dean, Hawk, Watson, Shipley, Fraley, Ty Cobb, Curtis Johnson and Mr. Speaker Williams

Substituted for: Senate Bill No. 1610

By Senators Beavers, Jackson, Gresham, Norris and Mr. Speaker Ramsey

AN ACT to amend Tennessee Code Annotated, Title 4, relative to exempting from regulation under the commerce clause of the Constitution of the United States a firearm, firearm accessory, or ammunition manufactured and retained in Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding Sections 2 through 7 of this act as a new chapter thereto.

SECTION 2. This chapter shall be known and may be cited as the "Tennessee Firearms Freedom Act".

SECTION 3. The general assembly declares that the authority for this act is the following:

(1) The tenth amendment to the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Tennessee certain powers as they were understood at the time that Tennessee was admitted to statehood. The guarantee of those powers is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States;

(2) The ninth amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Tennessee certain rights as they were understood at the time that Tennessee was admitted to statehood. The guarantee of those rights is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States.

(3) The regulation of intrastate commerce is vested in the states under the ninth and tenth amendments to the United States Constitution, particularly if not expressly preempted by federal law. Congress has not expressly preempted

state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearms accessories, and ammunition;

(4) The second amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Tennessee was admitted to statehood, and the guarantee of the right is a matter of contract between the state and people of Tennessee and the United States as of the time that the compact with the United States was agreed upon and adopted by Tennessee and the United States; and

(5) The Tennessee Constitution clearly secures to Tennessee citizens, and prohibits government interference with, the right of individual Tennessee citizens to keep and bear arms.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(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" includes but is not limited to springs, screws, nuts, and pins; and

(3) "Manufactured" means creating a firearm, a firearm accessory, or ammunition from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

SECTION 5. A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Tennessee and that remains within the borders of Tennessee 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. This section applies to a firearm, a firearm accessory, or ammunition that is manufactured in Tennessee from basic materials and that can be manufactured without the inclusion of any significant parts imported into this state. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into Tennessee and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Tennessee does not subject the firearm, firearm accessory, or ammunition to federal regulation. 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. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories, and ammunition made in Tennessee from those materials. Firearms accessories that are imported into Tennessee 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 Tennessee.

SECTION 6. Section 5 of this act shall not apply to:

- (1) A firearm that cannot be carried and used by one (1) person;
- (2) A firearm that has a bore diameter greater than one and one half (1 ½) inches and that uses smokeless powder, not black powder, as a propellant;
- (3) Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or
- (4) A firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

SECTION 7. A firearm manufactured or sold in Tennessee under this chapter must have the words "Made in Tennessee" clearly stamped on a central metallic part, such as the receiver or frame.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 3, 2009


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this day of 2009

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 1796 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.