

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 280

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; PROVIDING LEG-  
2 ISLATIVE DECLARATION; AMENDING SECTION 18-3315A, IDAHO CODE, TO REVISE  
3 AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE PROHIBITION OF  
4 FEDERAL REGULATION OF CERTAIN FIREARMS; PROVIDING SEVERABILITY; AND  
5 DECLARING AN EMERGENCY.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. LEGISLATIVE DECLARATION. The Legislature of the State of  
9 Idaho declares in connection with Section 18-3315A, Idaho Code:

10 The Tenth Amendment to the United States Constitution guarantees to  
11 the states and their people all powers not granted to the federal govern-  
12 ment elsewhere in the Constitution and reserves to the state and the people  
13 of Idaho certain powers as they were understood at the time that Idaho was  
14 admitted to statehood in 1890. The guaranty of those powers is a matter of  
15 contract between the state and people of Idaho and the United States as of the  
16 time that the compact with the United States was agreed upon and adopted by  
17 Idaho and the United States.

18 The Ninth Amendment to the United States Constitution guarantees to the  
19 people rights not granted in the Constitution and reserves to the people of  
20 Idaho certain rights as they were understood at the time that Idaho was ad-  
21 mitted to statehood in 1890. The guaranty of those powers is a matter of con-  
22 tract between the state and people of Idaho and the United States as of the  
23 time that the compact with the United States was agreed upon and adopted by  
24 Idaho and the United States.

25 The regulation of intrastate commerce is vested in the states under the  
26 Ninth and Tenth Amendments to the United States Constitution, particularly  
27 if not expressly preempted by federal law. Congress has not expressly pre-  
28 empted state regulation of intrastate commerce pertaining to the manufac-  
29 ture on an intrastate basis of firearms, firearms accessories and ammuni-  
30 tion.

31 The Second Amendment to the United States Constitution reserves to the  
32 people the right to keep and bear arms as that right was understood at the  
33 time that Idaho was admitted to statehood in 1890, and the guaranty of the  
34 right is a matter of contract between the state and people of Idaho and the  
35 United States as of the time that the compact with the United States was  
36 agreed upon and adopted by Idaho and the United States.

37 Section 11, article I, of the Idaho Constitution clearly secures and  
38 prohibits government interference with the right of individual Idaho citi-  
39 zens to keep and bear arms. This constitutional protection is unchanged from  
40 the 1890 Idaho Constitution, which was approved by Congress and the people of  
41 Idaho, and the right exists as it was understood at the time that the compact  
42 with the United States was agreed upon and adopted by Idaho and the United  
43 States in 1890.

1 SECTION 2. That Section 18-3315A, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1)  
4 As used in this section:

5 (a) "Borders of Idaho" means the boundaries of Idaho described in chap-  
6 ter 1, title 31, Idaho Code.

7 (b) "Firearms accessories" means items that are used in conjunction  
8 with or mounted upon a firearm but are not essential to the basic func-  
9 tion of a firearm including, but not limited to, telescopic or laser  
10 sights, magazines, flash or sound suppressors, folding or aftermarket  
11 stocks and grips, speedloaders, ammunition, ammunition carriers and  
12 lights for target illumination.

13 (c) "Generic and insignificant parts" includes, but is not limited to,  
14 springs, screws, nuts and pins.

15 (d) "Manufactured" means that a firearm, a firearm accessory, or ammu-  
16 nition has been created from basic materials for functional usefulness  
17 including, but not limited to, forging, casting, machining or other  
18 processes for working materials.

19 (2) A ~~personal~~ firearm, a firearm accessory, or ammunition that is  
20 manufactured commercially or privately in Idaho and that remains within the  
21 borders of Idaho is not subject to federal law or federal regulation, includ-  
22 ing registration, ~~under the authority of congress to regulate interstate~~  
23 ~~commerce~~ special taxation or confiscation. It is declared by the legisla-  
24 ture that those items have not traveled in interstate commerce and are not  
25 subject to the authority of congress to regulate under its commerce power.  
26 This section applies to a firearm, a firearm accessory or ammunition that  
27 is manufactured in Idaho from basic materials and that can be manufactured  
28 without the inclusion of any significant parts imported from another state.

29 (3) It is declared by the legislature that generic and insignificant  
30 parts that have other manufacturing or consumer product applications are not  
31 firearms, firearms accessories or ammunition, and their importation into  
32 Idaho and incorporation into a firearm, a firearm accessory or ammunition  
33 manufactured in Idaho does not subject the firearm, firearm accessory or am-  
34 munition to federal regulation. It is declared by the legislature that basic  
35 materials, such as unmachined steel and unshaped wood, are not firearms,  
36 firearms accessories or ammunition and are not subject to congressional  
37 authority to regulate firearms, firearms accessories and ammunition under  
38 interstate commerce as if they were actually firearms, firearms accessories  
39 or ammunition. The authority of congress to regulate interstate commerce in  
40 basic materials does not include authority to regulate firearms, firearms  
41 accessories and ammunition made in Idaho from those materials. Firearms  
42 accessories that are imported into Idaho from another state and that are  
43 subject to federal regulation as being in interstate commerce do not subject  
44 a firearm to federal regulation under interstate commerce because they are  
45 attached to or used in conjunction with a firearm in Idaho.

46 (4) If the manufacture, transfer, possession or ownership of any  
47 firearm or firearm accessory is prohibited by a federal law or executive  
48 order that becomes effective on or after March 1, 2013, then such firearm  
49 or firearm accessory is deemed unavailable as a result of such federal law

1 or executive order. Any firearm or firearm accessory that is subject to  
 2 any such federal law or executive order, but which is manufactured in Idaho  
 3 and remains within the borders of Idaho, is not subject to the authority of  
 4 Congress to regulate under its commerce power because of the federal pro-  
 5 hibition against such firearm or firearm accessory in interstate commerce.  
 6 Therefore, any firearm or firearm accessory federally prohibited by law or  
 7 order that becomes effective on or after March 1, 2013, under the authority  
 8 of Congress to regulate interstate commerce may be manufactured, trans-  
 9 ferred, possessed or owned within the borders of Idaho.

10 (5) Subsections (2), ~~and~~ (3) and (4) of this section do not apply to:

11 (a) A firearm that cannot be carried and used by one (1) person;

12 (b) A firearm that has a bore diameter greater than one and one-half  
 13 (1 1/2) inches and that uses smokeless powder, not black powder, as a  
 14 propellant;

15 (c) Ammunition with a projectile that explodes using an explosion of  
 16 chemical energy after the projectile leaves the firearm; or

17 (d) A firearm that discharges two (2) or more rounds of ammunition with  
 18 one (1) activation of the trigger or other firing device.

19 (56) In order to be afforded the protections set forth in subsections  
 20 (2) and (4) of this section, aA firearm or firearm accessory manufactured or  
 21 sold in Idaho under this section shall have the words "Made in Idaho" clearly  
 22 stamped on a central metallic part, such as the receiver or frame.

23 (67) This section applies to firearms, firearms accessories and ammu-  
 24 nition that are manufactured as defined in subsection (1) and retained in  
 25 Idaho after October 1, 2010.

26 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared  
 27 to be severable and if any provision of this act or the application of such  
 28 provision to any person or circumstance is declared invalid for any reason,  
 29 such declaration shall not affect the validity of the remaining portions of  
 30 this act.

31 SECTION 4. An emergency existing therefor, which emergency is hereby  
 32 declared to exist, this act shall be in full force and effect on and after its  
 33 passage and approval.