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Strasbaugh
3/15/13

SENATE CS FOR CS FOR HOUSE BILL NO. 69()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES CHENAULT, Millett, Johnson, Tammie Wilson, Hawker, Olson, Feige, Peggy Wilson, Thompson, Keller, Gattis, Lynn, Saddler, Higgins, LeDoux, Foster, Hughes, Stoltze, Reinbold, Tuck, Neuman, Isaacson

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting state and municipal agencies from using assets to implement or aid**
2 **in the implementation of the requirements of certain federal statutes, regulations, rules,**
3 **and orders that are applied to infringe on a person's right to bear arms or right to due**
4 **process or that implement or aid in the implementation of the federal REAL ID Act of**
5 **2005; exempting certain firearms, firearm accessories, and ammunition in this state**
6 **from federal regulation; declaring certain federal statutes, regulations, rules, and orders**
7 **unconstitutional under the Constitution of the United States and unenforceable in this**
8 **state; and providing for an effective date."**

9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

10 *** Section 1. The uncodified law of the State of Alaska is amended by adding a new section**
11 **to read:**

12 **FINDINGS. The legislature finds that**

(1) a statute, regulation, rule, or order that has the purpose, intent, or effect of confiscating any firearm, banning any firearm, limiting the size of a magazine for any firearm, imposing any limit on the ammunition that may be purchased for any firearm, or requiring the registration of any firearm or its ammunition infringes on an Alaskan's right to bear arms in violation of the Second Amendment to the Constitution of the United States and, therefore, is not made in accordance with the Constitution of the United States, is not authorized by the Constitution of the United States, is not the supreme law of the land, and, consequently, is invalid in this state and shall be considered null and void and of no effect in this state; and

(2) further authority for this Act is the following:

(A) art. I, sec. 19, Constitution of the State of Alaska, clearly secures to Alaska citizens and prohibits government interference with the right of individual Alaska citizens to keep and bear arms;

(B) the Tenth Amendment to the Constitution of the United States 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 Alaska certain powers as they were intended at the time that Alaska was admitted to statehood in 1959; the guaranty of those powers is a matter of contract between the state and people of Alaska and the United States as of the time that the compact with the United States was agreed to and adopted by Alaska and the United States in 1959;

(C) the Ninth Amendment to the Constitution of the United States guarantees to the people rights not granted in the constitution and reserves to the people of Alaska certain rights as they were intended at the time that Alaska was admitted to statehood in 1959; the guaranty of those rights is a matter of contract between the state and people of Alaska and the United States as of the time that the compact with the United States was agreed upon and adopted by Alaska and the United States in 1959;

(D) art. I, sec. 7, Constitution of the State of Alaska, and the Fifth Amendment to the Constitution of the United States guarantee to the people the right to due process.

* Sec. 2. AS 44.99.040 is repealed and reenacted to read:

Sec. 44.99.040. Limitation on use of assets. (a) A state or municipal agency

1 may not use or authorize the use of an asset to implement or aid in the implementation
2 of a requirement of

3 (1) an order of the President of the United States, a federal regulation,
4 or a law enacted by the United States Congress that is applied to

5 (A) infringe on a person's right, under the Second Amendment
6 to the Constitution of the United States, to keep and bear arms;

7 (B) deny a person a right to due process, or a protection of due
8 process, that would otherwise be available to the person under the Constitution
9 of the State of Alaska, or the Constitution of the United States; or

10 (2) P.L. 109-13, Division B (REAL ID Act of 2005).

11 (b) In this section,

12 (1) "asset" means funds, facilities, equipment, services, or other
13 resources of a state or municipal agency;

14 (2) "state or municipal agency" means the University of Alaska, the
15 Alaska Aerospace Corporation, the Alaska Housing Finance Corporation, the Alaska
16 Industrial Development and Export Authority, the Alaska Energy Authority, the
17 Alaska Railroad Corporation, or a department, institution, board, commission,
18 division, council, committee, authority, public corporation, school district, regional
19 educational attendance area, or other administrative unit of a municipality or of the
20 executive, judicial, or legislative branch of state government, and includes employees
21 of those entities.

22 * Sec. 3. AS 44.99.500(a) is amended to read:

23 (a) A personal firearm, a firearm accessory, or ammunition that is possessed
24 in this state or manufactured commercially or privately in this state and that remains
25 in the state is not subject to federal law or federal regulation, including registration,
26 under the authority of the United States Congress to regulate interstate commerce as
27 those items have not traveled in interstate commerce.

28 * Sec. 4. AS 44.99.500(b) is amended to read:

29 (b) This section applies to a firearm, a firearm accessory, or ammunition that
30 is possessed in this state or manufactured in this state from basic materials and that
31 can be manufactured without the inclusion of any significant parts imported from

1 another state. Generic and insignificant parts that have other manufacturing or
2 consumer product applications are not firearms, firearm accessories, or ammunition,
3 and their importation into this state and incorporation into a firearm, a firearm
4 accessory, or ammunition manufactured in this state does not subject the firearm,
5 firearm accessory, or ammunition to federal regulation. Basic materials, such as
6 unmachined steel and unshaped wood, are not firearms, firearm accessories, or
7 ammunition and are not subject to congressional authority to regulate firearms, firearm
8 accessories, and ammunition under interstate commerce as if they were actually
9 firearms, firearm accessories, or ammunition. The authority of the United States
10 Congress to regulate interstate commerce in basic materials does not include authority
11 to regulate firearms, firearm accessories, and ammunition possessed in this state or
12 made in this state from those materials. Firearm accessories that are imported into this
13 state from another state and that are subject to federal regulation as being in interstate
14 commerce do not subject a firearm to federal regulation under interstate commerce
15 because they are attached to or used in conjunction with a firearm in this state.

16 * Sec. 5. AS 44.99.500(d) is amended to read:

17 (d) The attorney general may defend a citizen of this state who is prosecuted
18 by the government of the United States under the congressional power to regulate
19 interstate commerce for violation of a federal law concerning the manufacture, sale,
20 transfer, or possession of a firearm, a firearm accessory, or ammunition possessed in
21 this state or manufactured and retained within this state.

22 * Sec. 6. AS 44.99.500 is amended by adding new subsections to read:

23 (f) A federal statute, regulation, rule, or order adopted, enacted, or otherwise
24 effective on or after the effective date of this Act is unenforceable in this state by an
25 official, agent, or employee of this state, a municipality, or the federal government if
26 the federal statute, regulation, rule, or order attempts to

27 (1) ban or restrict ownership of a semiautomatic firearm or a magazine
28 of a firearm; or

29 (2) require a firearm, magazine, or other firearm accessory to be
30 registered.

31 (g) the attorney general may, under the Second Amendment to the

1 Constitution of the United States or art. I, sec. 19, Constitution of the State of Alaska,
2 use all state resources necessary to prevent the implementation of a federal statute,
3 regulation, rule, or order that violates the rights of a resident of the state.

4 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).