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SENATE CS FOR CS FOR HOUSE BILL NO. 69(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/6/13

Referred: Rules

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

SENATORS Giessel, Meyer, Micciche

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; requiring the attorney general to file any legal action to prevent implementation of**
9 **a federal statute, regulation, rule, or order that violates the rights of a resident of the**
10 **state; and providing for an effective date."**

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

12 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section

1 to read:

2 FINDINGS. The legislature finds that

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

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

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

15 (B) the Tenth Amendment to the Constitution of the United States
16 guarantees to the states and their people all powers not granted to the federal
17 government elsewhere in the constitution and reserves to the state and people of
18 Alaska certain powers as they were intended at the time that Alaska was admitted to
19 statehood in 1959; the guaranty of those powers is a matter of contract between the
20 state and people of Alaska and the United States as of the time that the compact with
21 the United States was agreed to and adopted by Alaska and the United States in 1959;

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

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

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

2 **Sec. 44.99.040. Limitation on use of assets.** (a) A state or municipal agency
3 may not use or authorize the use of an asset to implement or aid in the implementation
4 of a requirement of

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

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

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

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

13 (b) In this section,

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

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

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

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

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

31 (b) This section applies to a firearm, a firearm accessory, or ammunition that

1 is possessed in this state or manufactured in this state from basic materials and that
 2 can be manufactured without the inclusion of any significant parts imported from
 3 another state. Generic and insignificant parts that have other manufacturing or
 4 consumer product applications are not firearms, firearm accessories, or ammunition,
 5 and their importation into this state and incorporation into a firearm, a firearm
 6 accessory, or ammunition manufactured in this state does not subject the firearm,
 7 firearm accessory, or ammunition to federal regulation. Basic materials, such as
 8 unmachined steel and unshaped wood, are not firearms, firearm accessories, or
 9 ammunition and are not subject to congressional authority to regulate firearms, firearm
 10 accessories, and ammunition under interstate commerce as if they were actually
 11 firearms, firearm accessories, or ammunition. The authority of the United States
 12 Congress to regulate interstate commerce in basic materials does not include authority
 13 to regulate firearms, firearm accessories, and ammunition possessed in this state or
 14 made in this state from those materials. Firearm accessories that are imported into this
 15 state from another state and that are subject to federal regulation as being in interstate
 16 commerce do not subject a firearm to federal regulation under interstate commerce
 17 because they are attached to or used in conjunction with a firearm in this state.

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

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

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

25 (f) A federal statute, regulation, rule, or order adopted, enacted, or otherwise
 26 effective on or after the effective date of this Act is unenforceable in this state by an
 27 official, agent, or employee of this state, a municipality, or the federal government if
 28 the federal statute, regulation, rule, or order violates the Second Amendment to the
 29 Constitution of the United States or art. I, sec. 19, Constitution of the State of Alaska
 30 by

31 (1) banning or restricting ownership of a semiautomatic firearm or a

1 magazine of a firearm; or

2 (2) requiring a firearm, magazine, or other firearm accessory to be
3 registered.

4 (g) The attorney general shall, under the Second Amendment to the
5 Constitution of the United States or art. I, sec. 19, Constitution of the State of Alaska,
6 file legal action necessary to prevent the implementation of a federal statute,
7 regulation, rule, or order that violates the rights of a resident of the state.

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