

HB

69

<TARGET><BILL>HB 69</BILL><SUBJECT>HB
69</SUBJECT><COMM>HJUD28</COMM></TARGET>

CS FOR HOUSE BILL NO. 69(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**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

A BILL

FOR AN ACT ENTITLED

1 **"An Act exempting certain firearms, firearm accessories, and ammunition in this state**
2 **from federal regulation; declaring certain federal statutes, regulations, rules, and orders**
3 **unconstitutional under the Constitution of the United States and unenforceable in this**
4 **state; providing criminal penalties for federal officials who enforce or attempt to enforce**
5 **a federal statute, regulation, rule, or order regulating certain firearms and firearm**
6 **accessories in this state; and providing for an effective date."**

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

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

10 FINDINGS. The legislature finds that

11 (1) a statute, regulation, rule, or order that has the purpose, intent, or effect of
12 confiscating any firearm, banning any firearm, limiting the size of a magazine for any firearm,
13 imposing any limit on the ammunition that may be purchased for any firearm, or requiring the

1 registration of any firearm or its ammunition infringes on an Alaskan's right to bear arms in
 2 violation of the Second Amendment to the Constitution of the United States and, therefore, is
 3 not made in accordance with the Constitution of the United States, is not authorized by the
 4 Constitution of the United States, is not the supreme law of the land, and, consequently, is
 5 invalid in this state and shall be considered null and void and of no effect in this state; and

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

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

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

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

24 * **Sec. 2.** 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. 3.** 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. 4.** 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. 5.** 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 attempts to

29 (1) ban or restrict ownership of a semiautomatic firearm or a magazine
30 of a firearm; or

31 (2) require a firearm, magazine, or other firearm accessory to be

1 registered.

2 (g) An official, agent, or employee of the federal government who enforces or
3 attempts to enforce a federal statute, regulation, rule, or order unenforceable under (f)
4 of this section is guilty of a class C felony and may be punished as provided in
5 AS 12.55.

6 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 69
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB069CS(JUD)-DOC-OC-02-14-13
Title: EXEMPT FIREARMS FROM FEDERAL
REGULATION
Sponsor: CHENAULT
Requester: (H)JUD

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This fiscal note is updated to reflect the most recent committee substitute.
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Prepared By:	Kevin Worley, Director	Phone:	(907)465-4641
Division	Department of Corrections - Administrative Services	Date:	02/14/2013 08:30 AM
Approved By:	Leslie Houston, Deputy Commissioner	Date:	02/14/13
	Department of Corrections		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSHB 69 (JUD)

Analysis

This bill would make it a class C felony for a federal official to enforce a federal law which attempts to ban or restrict ownership of a semiautomatic firearm or magazine or require that a firearm or firearm accessory be registered. A person convicted of a class C felony may be sentenced to a term of not more than five years in prison.

This legislation is not expected to cause a dramatic increase in convictions which would require incarceration and, therefore, there is no fiscal impact to the Department.

Bob Bird Bio

A 36-year Alaskan

Teacher in secondary and higher education for 40 years

Twice a candidate for the U.S. Senate: Republican primary in 1990 and general election (AIP) in 2008; endorsed by Ron Paul in 2008

Constitutional scholar and author: *A History of the Incorporation of the Kenai Peninsula Borough* (Mankato State); *The Nineteenth Century Physicians' Crusade Against Abortion* (Mankato State); *Is Alaska Statehood a Fraud?* (www.akip.org)

President of Alaska Right to Life, 1995-97

Master's Degree in History from Mankato State

Delegate to the following national conventions: Republican, 1996; Reform Party, 2000; Constitution Party, 2004.

Hockey coach, radio sports broadcaster

To: Rep. Wes Keller and Members of the House Judiciary Committee
From: Bob Bird
Subject: HB 69

My thanks to Chairman Keller and the entire House Judiciary Committee for providing me with the opportunity to discuss HB 69.

The measure is timely, and unquestionably controversial.

The actions that have provoked it are equally controversial. It is my hope that the committee will be able to peruse this statement prior to my testimony.

1. Question: Is nullification unconstitutional?

Answer: No. The Constitution lists certain things that states are forbidden to perform, and are found in Article I, Section 10, as well as in various amendments, most notably 13, 14 and 15. Nullification is not listed.

In addition, the 10th Amendment confirms the sovereignty of a state in all actions not forbidden in Article I, Section 10 or in any other portion of the Constitution, as amended.

The Father of the Constitution, James Madison, responding to an unconstitutional law, himself proposed nullification in the Virginia Resolutions of 1798. [see attached]

Would the Father of the Constitution encourage an unconstitutional act by the then largest and most influential state, a mere ten years after its ratification?

2. What about the so-called "supremacy clause" of the Constitution? Doesn't that trump all objections?

Answer: The "supremacy clause" reads as follows: "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

The operative phrase to consider is "... the laws of the United States which shall be made in pursuance thereof [of the Constitution] ..."

Thus, "laws" that violate the Constitution are obviously not made "in pursuance thereof", and are therefore not laws at all, but are null and void by this provision in the Constitution.

There are things that states are forbidden to do, such as coin money, pass *ex post facto* laws or a bill of attainder. If a state's constitution empowered it to do so, then the supremacy clause would take effect.

3. Question: Does nullification have anything to do with unconstitutional actions?

Answer: Yes. It is an effort to *correct* unconstitutional actions performed not by the states, but by the federal government.

In Madison's time, it was a direct attack, through the Sedition Act, against the First Amendment's guarantees to protect freedom of speech and of the press. In our time, it is the

threat of the federal government, either by judicial fiat, executive action or Congressional statute, to infringe on the people's right to keep and bear arms.

The remedy might also be applied to a nearly endless host of federal actions, from both the recent and more distant past, too numerous to mention here.

Nullification is, in fact, a supremely Constitutional act. In the oath to protect the Constitution taken by all state legislators in all fifty states, it should be pointed out that the oath is not to protect or defend the federal government. That would otherwise presume that all federal actions --- legislative, executive or judicial --- are automatically in conformity with the Constitution.

Experience has taught us otherwise. The legislator's oath is, in fact, a sacred pact that cannot be taken lightly. The oath might require scholarship, statesmanship and courage that run against the opinions groomed by journalists that wish to pander to the federal lust for power, at the expense of the people's freedom.

The Constitution is largely a brake not upon state power, but federal power. If the brakes fail, the states must seek the remedy advised by Alexander Hamilton in Federalist #33:

"If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify."

4. Question: If nullification is constitutional, how can it possibly be effective?

Answer: It is very effective. The Alaska legislature has already performed a *de facto* nullification with the Real ID Act. The Colorado and Washington state initiatives were overt nullification laws taken against the federal "War on Drugs". The federal government is very weak when states refuse to cooperate.

One of the most effective nullification options is, unfortunately due to Alaska's Statehood Act and constitution, not available: the actions of local sheriffs in announcing their refusal to comply with federal mandates interfering with the right to self-defense. A sheriff is the ultimate authority within a county, and is answerable not to an attorney general, a governor or a federal bureaucracy, but to the people. The legislature might want to address this at some future time.

5. But doesn't the supreme court decide what is and is not constitutional?

Answer: This is the system that has been accepted and taught in text books, law schools and classrooms since *Marbury v. Madison* in 1803. That is an enormously long time, and the great momentum and process behind it is a contributing factor to bringing us to this crisis.

But *Marbury* has been opposed by Constitutional scholars from the beginning. Their opinions have been drowned out in a *zeitgeist* of expanding federal power. Thomas Jefferson, while benefiting from the decision handed down by *Marbury*, a man he did not want appointed, fully understood this, when he wrote to Chief Justice John Marshall:

"You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with

others, the same passions for party, for power, and the privilege of their corps.... Their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves”

Note that *Marbury* is case law. It is not a statute, nor an amendment to the Constitution, but a seizure or usurpation of a novel function by a branch of the federal government that had not been set to writing.

In Federalist #78, Hamilton explained that the court possessed neither force nor will, but merely judgment. In Article III, Section 2, Congress retains the right to remove the court from jurisdiction in whatever it so chooses, as it did with the construction of our own Alaska Pipeline. Furthermore, no president need enforce court opinions, whether justly or not, as has been done in the past when Jackson refused to do so in *Worcester v. Georgia*.

In #78, Hamilton further insisted:

“There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves.”

It is true ... a state might err in its consideration of what is and is not constitutional. Like the courts, the states are composed of imperfect men and women. Nullification is not a perfect solution. It's an imperfect world.

#6: Question: But didn't the civil war decide that the federal government is supreme in all things?
Answer: It certainly did, but war is a poor arbiter of truth. It would be like saying the playground bully who beat up the class nerd was right, simply because he won the fight. The false paradigm of a century and a half has created a monster that blatantly demands meek acquiescence to its pretended acts, performed under the color of law, but which can be seen as a violent usurpation of the Constitution, by any person possessed of the power to read and understand words.

The challenge I pose to those who deny either the legality or efficacy of nullification is this: If the courts, executive or Congress passed a law or opinion legalizing slavery, without repealing the 13th Amendment, would the states be obliged to obey it?

IN THE HOUSE OF REPRESENTATIVES,

November 10th, 1798.

THE House, according to the standing order of the day, resolved itself into a committee of the whole on the state of the commonwealth, Mr. Caldwell in the chair; and after some time spent therein, the Speaker resumed the chair, and Mr. Caldwell reported that the committee had, according to order, had under consideration the Governor's address, and had come to the following resolutions thereupon, which he delivered in at the clerk's table, where they were twice read and agreed to by the House.

1. Resolved, That the several states composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving, each state to itself the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each state acceded as a state, and is an integral party, its co-states forming as to itself, the other party: That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress.

2. Resolved, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people ;" therefore, also, the same act of Congress, passed on the 14th day of July, 1798, and entitled, "an act in addition to the act entitled, an act for the punishment of certain crimes against the United States;" as also the act passed by them on the 27th day of June, 1798, entitled, "an act to punish frauds committed on the Bank of the United States," (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution,) are altogether void, and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains, solely and exclusively, to the respective states,

each within its own territory.

3. Resolved, That it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that " the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press, being delegated to the United States by the Constitution, nor prohibited by it to the states, all lawful powers respecting the same did of right remain, and were reserved to the states, or to the people ; that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgment by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same. as this state by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: and that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamations, equally with heresy and false religion, are withheld from the cognizance of federal tribunals: that therefore the act of the Congress of the United States, passed on the 14th day of July, 1798, entitled, "an act in addition to the act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

4. Resolved, That alien-friends are under the jurisdiction and protection of the laws of the state wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual states distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people," the act of the Congress of the United States, passed on the 22d day of June, 1798, entitled "an act concerning aliens," which assumes power over alien-friends not delegated by the Constitution, is not law, but is altogether void and of no force.

5. Resolved, That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted in the Constitution, from abundant caution, has declared, "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808:" that this commonwealth does admit the migration of alien-friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated, is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

6. Resolved, That the imprisonment of a person under the protection of the laws of this commonwealth, on his failure to obey the simple order of the President, to depart out of the United States, as is undertaken by the said act, entitled "an act concerning aliens," is contrary to the Constitution, one amendment to which has provided, that "no person shall be deprived of liberty without due process of law," and that another having provided, "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence," the same act undertaking to authorize the President to remove a person out of the United States, who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favour, without defence, without counsel, is contrary to these provisions, also, of the Constitution, is therefore not law, but utterly void and of no force.

That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act, concerning aliens, is against the article of the Constitution which provides, that "the judicial power of the United States shall be vested in courts, the judges of which shall hold their offices during good behaviour," and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the General Government, who already possesses all the executive, and a qualified negative in all the legislative powers.

7. Resolved, That the construction applied by the General Government, (as is evinced by sundry of their proceedings,) to those parts of the Constitution of the United States which delegates to Congress a power to lay and collect

taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution: that words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken, as to destroy the whole residue of the instrument: that the proceedings of the General Government under colour of these articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. Resolved, That the preceding resolutions be transmitted to the senators and representatives in Congress from this commonwealth, who are hereby enjoined to present the same to their respective houses, and to use their best endeavours to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. Resolved, lastly, That the Governor of this commonwealth be, and is hereby authorized and requested to communicate the preceding resolutions to the legislatures of the several states, to assure them that this commonwealth considers union for specified national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the states: that, faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation : that it does also believe, that to take from the states all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special obligations and reservations solemnly agreed to in that compact, is not for the peace, happiness or prosperity of these states: and that therefore, this commonwealth is determined, as it doubts not its co-states are, tamely to submit to undelegated and consequently unlimited powers in no man or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the Constitution, as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these states being, by this precedent, reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart

now remains against the passions and the power of a majority of Congress, to protect from a like exportation or other more grievous punishment the minority of the same body, the legislatures, judges, governors, and counsellors of the states, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the states and people, or who, for other causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their elections, or other interests public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for, already has a sedition-act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold,

may tend to drive these states into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion, were a confidence in the men of our choice, to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the alien and sedition-acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits? Let him say what the government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted, over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President, than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief, by the chains of the Constitution. That this commonwealth does, therefore, call on its co-states for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the Federal compact. And it doubts not that their sense will be so announced, as to prove their attachment unaltered to limited government, whether general or particular, and that the rights and liberties of their co-states, will be exposed to no dangers by remaining embarked on a common bottom with their own: That they will concur with this commonwealth in considering the said acts as so palpably against the Constitution, as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the general government, but that it will

proceed in the exercise over these states of all powers whatsoever: That they will view this as seizing the rights of the states, and consolidating them in the hands of the general government with a power assumed to bind the states, (not merely in cases made federal,) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-states, recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force and will each unite with this commonwealth, in requesting their repeal at the next session of Congress.

EDMUND BULLOCK, S. H. R.

JOHN CAMPBELL, S. S. P. T.

Passed the House of Representatives, Nov. 10th, 1798.

Attest, THOMAS TODD, C. H. R.

In Senate, November 13th, 1798, unanimously concurred in.

Attest, B. THRUSTON, Clk. Sen.

Approved November 16th, 1798. JAMES GARRARD, G. K.

By the Governor. HARRY TOULMIN,

Secretary of State.

Virginia Resolution - Alien and Sedition Acts

See also:

[The Kentucky Resolution](#)

[The Alien Act](#)

[The Sedition Act](#)

RESOLVED, That the General Assembly of Virginia, doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former.

That this assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them, can alone secure it's existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact, to which the states are parties; as limited by the plain sense and intention of the instrument constituting the compact; as no further valid that they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.

That the General Assembly doth also express its deep regret, that a spirit has in sundry instances, been manifested by the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that implications have appeared of a design to expound certain general phrases (which having been copied from the very limited grant of power, in the former articles of confederation were the less liable to be misconstrued) so as to destroy the meaning and effect, of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the states by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be, to transform the present republican system of the United States, into an absolute, or at best a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts" passed at the last session of Congress; the first of which exercises a power no where delegated to the federal government, and which by uniting legislative and judicial powers to those of executive, subverts the general principles of free government; as well as the particular organization, and positive provisions of the federal constitution; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of

free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.

That this state having by its Convention, which ratified the federal Constitution, expressly declared, that among other essential rights, "the Liberty of Conscience and of the Press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having with other states, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution; it would mark a reproachable inconsistency, and criminal degeneracy, if an indifference were now shewn, to the most palpable violation of one of the Rights, thus declared and secured; and to the establishment of a precedent which may be fatal to the other.

That the good people of this commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of the other states; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions of the other states, in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid, are unconstitutional; and that the necessary and proper measures will be taken by each, for co-operating with this state, in maintaining the Authorities, Rights, and Liberties, referred to the States respectively, or to the people.

That the Governor be desired, to transmit a copy of the foregoing Resolutions to the executive authority of each of the other states, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this state in the Congress of the United States.

Agreed to by the Senate, December 24, 1798.

Alaska State Legislature

State Capitol, Room 208
Juneau, Alaska 99801-1182
Phone: 907-465-3779
Fax: 907-465-2833
Toll Free: 800-469-3779

145 Main St. Loop
Second Floor
Kenai, Alaska 99611
Phone: 907-283-7223
Fax: 907-283-7184



REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

MEMORANDUM

TO: Representative Wes Keller
Chair, House Judiciary Committee

FROM: Representative Mike Chenault
Speaker, Alaska State House

A handwritten signature in blue ink, appearing to read "Mike Chenault", enclosed in a hand-drawn oval.

DATE: January 22, 2013

RE: Request for Hearing, House Bill 69

Please consider this memorandum as a request to hear House Bill 69: Exempt Firearms from Federal Regulation, before the House Judiciary Committee at your convenience.

Back up materials will be forwarded to your committee aide as soon as possible.

Thank you for your consideration of my request. Call either myself or Tom Wright of my staff in the event either of us can provide further information.

28-LS0290\O
Strasbaugh
2/13/13

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

A BILL
FOR AN ACT ENTITLED

1 **"An Act exempting certain firearms, firearm accessories, and ammunition in this state**
2 **from federal regulation; declaring certain federal statutes, regulations, rules, and orders**
3 **unconstitutional under the Constitution of the United States and unenforceable in this**
4 **state; providing criminal penalties for federal officials who enforce or attempt to enforce**
5 **a federal statute, regulation, rule, or order regulating certain firearms and firearm**
6 **accessories in this state; and providing for an effective date."**

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

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

10 **FINDINGS. The legislature finds that**
11 **(1) a statute, regulation, rule, or order that has the purpose, intent, or effect of**
12 **confiscating any firearm, banning any firearm, limiting the size of a magazine for any firearm,**
13 **imposing any limit on the ammunition that may be purchased for any firearm, or requiring the**

1 registration of any firearm or its ammunition infringes on an Alaskan's right to bear arms in
2 violation of the Second Amendment to the Constitution of the United States and, therefore, is
3 not made in accordance with the Constitution of the United States, is not authorized by the
4 Constitution of the United States, is not the supreme law of the land, and, consequently, is
5 invalid in this state and shall be considered null and void and of no effect in this state; and

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

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

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

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

24 * Sec. 2. 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. 3. 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. 4. 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. 5. 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 attempts to

29 (1) ban or restrict ownership of a semiautomatic firearm or a magazine
30 of a firearm; or

31 (2) require a firearm, magazine, or other firearm accessory to be

1 registered.

2 (g) An official, agent, or employee of the federal government who enforces or
3 attempts to enforce a federal statute, regulation, rule, or order unenforceable under (f)
4 of this section is guilty of a class C felony and may be punished as provided in
5 AS 12.55.

6 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

28-LS0290\N
Strasbaugh
2/4/13

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act exempting certain firearms and firearm accessories in this state from federal**
2 **regulation; declaring certain federal statutes, regulations, rules, and orders**
3 **unconstitutional under the Constitution of the United States and unenforceable in this**
4 **state; providing criminal penalties for federal officials who enforce or attempt to enforce**
5 **a federal statute, regulation, rule, or order regulating certain firearms and firearm**
6 **accessories in this state; and providing for an effective date."**

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

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

10 FINDINGS. The legislature finds that

11 (1) a statute, regulation, rule, or order that has the purpose, intent, or effect of
12 confiscating any firearm, banning any firearm, limiting the size of a magazine for any firearm,
13 imposing any limit on the ammunition that may be purchased for any firearm, taxing any

1 firearm or its ammunition, or requiring the registration of any firearm or its ammunition
 2 infringes on an Alaskan's right to bear arms in violation of the Second Amendment to the
 3 Constitution of the United States and, therefore, is not made in accordance with the
 4 Constitution of the United States, is not authorized by the Constitution of the United States, is
 5 not the supreme law of the land, and, consequently, is invalid in this state and shall be
 6 considered null and void and of no effect in this state; and

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

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

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

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

25 * **Sec. 2.** AS 44.99.500(a) is amended to read:

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

31 * **Sec. 3.** AS 44.99.500(b) is amended to read:

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

19 * **Sec. 4.** AS 44.99.500(d) is amended to read:

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

25 * **Sec. 5.** AS 44.99.500 is amended by adding new subsections to read:

26 (f) A federal statute, regulation, rule, or order adopted, enacted, or otherwise
27 effective on or after January 1, 2013, is unenforceable in this state by an official,
28 agent, or employee of this state, a municipality, or the federal government if the
29 federal statute, regulation, rule, or order attempts to

30 (1) ban or restrict ownership of a semiautomatic firearm or a magazine
31 of a firearm; or

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

3 (g) An official, agent, or employee of the federal government who enforces or
4 attempts to enforce a federal statute, regulation, rule, or order unenforceable under (f)
5 of this section that is adopted on or after the effective date of (f) of this section is
6 guilty of a class C felony and may be punished as provided in AS 12.55.

7 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 RETROACTIVITY. AS 44.99.500(f), added by sec. 5 of this Act, is retroactive to
10 January 1, 2013.

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

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 69 (A)
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB069-DOC-OC-02-06-13
Title: EXEMPT FIREARMS FROM FEDERAL
REGULATION
Sponsor: CHENAULT
Requester: (H)JUD

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
---------------------------	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Prepared By: <u>Kevin Worley, Director</u>	Phone: <u>(907)465-4641</u>
Division: <u>Department of Corrections - Administrative Services</u>	Date: <u>02/06/2013 08:30 AM</u>
Approved By: <u>Leslie Houston, Deputy Commissioner</u>	Date: <u>02/06/13</u>
<u>Department of Corrections</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 69

Analysis

This bill would make it a class B misdemeanor for a federal official to enforce a federal law which attempts to ban or restrict ownership of a semiautomatic firearm or magazine or require that a firearm or firearm accessory be registered. A person convicted of a class B misdemeanor may be sentenced to a term of not more than 90 days in prison.

This legislation is not expected to cause a dramatic increase in convictions which would require incarceration and, therefore, there is no fiscal impact to the Department.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 69 (A)
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB069-LAW-CRIM-02-01-13
Title: EXEMPT FIREARMS FROM FEDERAL
REGULATION
Sponsor: CHENAULT
Requester: (H) Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Loretta Withington, Division Operations Manager
Division: Administrative Services Division
Approved By: Michael C. Geraghty, Attorney General
Department of Law

Phone: (907)465-5427
Date: 02/01/2013 12:00 AM
Date: 02/01/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 69

Analysis

House Bill 69 provides that a personal firearm or accessory that is possessed in the state is not subject to federal law or regulation under the interstate commerce authority.

The bill would also allow the Attorney General the discretion to defend a person prosecuted by the federal government for violation of federal law relating to the possession of a firearm or accessory in the state.

HB 69 also states that a federal law that would ban or restrict ownership of a semiautomatic firearm or magazine or require a firearm to be registered would not be enforceable in the state. Any federal official who enforces such a law would be subject to prosecution for a class B misdemeanor.

This zero fiscal note does not include the cost of litigating the enforceability of the bill.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 69 (A)
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB069-DPS-DET-02-05-13
Title: EXEMPT FIREARMS FROM FEDERAL
REGULATION
Sponsor: CHENAULT
Requester: House Judiciary

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Lieutenant Rodney Dial	Phone:	(907)254-1284
Division	Alaska State Troopers	Date:	02/01/2013 08:15 AM
Approved By:	Joseph A. Masters, Commissioner	Date:	02/05/13
	Department of Public Safety		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. HB069

Analysis

This bill would amend AS 44.99.500 (Alaska Firearms Freedom Act) to exempt possession of firearms, firearm accessories and ammunition from federal firearm control laws, and prohibit the enforcement by federal officials of federal firearm laws enacted after the effective date of this bill if they restrict semi-automatic firearms or magazines or require registration of such items.

Passage of this bill will have no fiscal impact to the Division of Alaska State Troopers.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

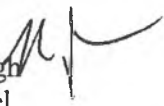
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 16, 2013

SUBJECT: Exempting Firearms from Federal Regulation
(Work Order No. 28-LS0290A)

TO: Representative Mike Chenault
Attn: Tom Wright

FROM: Kathleen Strasbaugh 
Legislative Counsel

Please find enclosed the bill you requested exempting certain firearms and firearms accessories from federal regulation and providing a criminal penalty for federal officials who attempt to enforce such federal regulation. We note that the bill is largely unconstitutional.

Drafting Matters

The bill is in the form of amendments to AS 44.99.500, enacted in 2010. AS 44.99.500 was enacted in an effort to avoid federal regulation of firearms that are made in Alaska on the theory that the commerce clause could not be used to authorize federal firearms regulation for purely intrastate activity. Wyoming's new bill is also in the form of amendments to a nearly identical act. The amendments (1) add possession to the activities to be exempted from federal regulation, (2) provide criminal penalties at a misdemeanor level for enforcing or attempting to enforce federal regulation, and (3) attempt to prevent the application of not-yet-proposed federal laws regarding semiautomatic weapons and magazines.

You did not specify the level of misdemeanor that you wanted to apply to the newly created offense. The current draft makes the offense a class B misdemeanor, which allows imprisonment for not more than 90 days, and a fine of not more than \$2000. AS 12.55.135(b); AS 12.55.035(b)(6). The other available class of misdemeanor is class A, which carries a penalty of not more than one year's imprisonment, and a fine of not more than \$10,000. AS 12.55.135(a); AS 12.55.035(b)(5). Please let me know if you would prefer that the offense be classified as a class A misdemeanor.

Constitutional Failings

Challenges to federal firearm regulation are generally undertaken for a determination of whether a regulation is an appropriate subject for federal legislation under the Commerce

Representative Mike Chenault
January 16, 2013
Page 2

Clause. This issue was discussed in some detail in hearings conducted at the time the legislature was considering passage of AS 44.99.500. See *Minutes*, H. Jud. Comm. (HB 186, April 6, 2009); *Minutes*, S. Jud. Comm. (HB 186, February 1, 2010); *Minutes*, S. Jud. Comm. (HB 186, February 17, 2010).¹

We summarize the discussion briefly here.

Article I, § 8 of the Constitution of the United States provides:

The Congress shall have power . . . [t]o regulate commerce with foreign nations, and among the several states and with the Indian tribes

In *United States v. Lopez*, 514 U.S. 549 (1995), the United States Supreme Court found that a federal law prohibiting the possession of a firearm near a school was not an economic activity:

[t]he possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce. Respondent was a local student at a local school; there is no indication that he had recently moved in interstate commerce, and there is no requirement that his possession of the firearm have any concrete tie to interstate commerce.

514 U.S. at 561. Accordingly, the Court struck down 18 U.S.C. § 922(q), the "Gun Free School Zones Act of 1990," holding that the commerce clause did not provide support for the legislation.

However, *Lopez* is not likely to save the bill, or AS 44.99.500. In *Gonzales v. Raich*, 545 U.S. 1 (2005), the Court held that the commerce clause authorized Congress to enact federal laws regulating and criminalizing activities involving controlled substances even if those activities were wholly intrastate and were pursuant to a state statutory scheme that authorized the activities. The court found that unlike the activity at issue in *Lopez*, the activities regulated by the federal controlled substances laws are fundamentally economic. The CSA regulates the production, distribution, and consumption of commodities for which there is an established, interstate market. Prohibiting intrastate possession of an article of commerce is a commonly utilized means of regulating commerce in that product. Limiting the activity to marijuana possession and cultivation "in accordance with state law" could not serve to place those activities outside of Congress's reach. 545 U.S. at 25-26.

Once Congress properly adopts legislation under the commerce clause, the supremacy clause resolves any conflict between federal and state law in favor of federal law. *Id.*

¹ See also, documents linked at http://www.legis.state.ak.us/basis/get_minutes.asp?chamb=B&date1=010109&date2=011413&session=26&Root=HB186.

Representative Mike Chenault
January 16, 2013
Page 3

As Article VI, Clause 2 of the United States Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Ninth Circuit Court of Appeals upheld federal regulation of firearms produced solely within one state in *United States v. Stewart*, 451 F.3d 1071 (9th Cir. 2006). Robert Stewart manufactured homemade machine guns and machine gun kits wholly within California and was convicted of possessing a machine gun in violation of federal law. Stewart appealed and the Ninth Circuit Court of Appeals, based upon *Lopez* and another case, and before *Raich* was decided, initially reversed his conviction finding that the simple possession of homemade machines did not have a substantial effect on interstate commerce. See *United States v. Stewart*, 348 F.3d 1132 (9th Cir. 2003). After the United States Supreme Court decided *Raich*, the Supreme Court vacated the decision of the Ninth Circuit and told the court to reconsider their opinion in light of *Raich*. On remand, the Ninth Circuit found that Congress had the authority to regulate machine guns, including one's wholly a product of intrastate commerce. The court found that guns, can enter the interstate market and affect supply and demand.

The new amendments to the law compound the problems of AS 44.99.500, in that by adding possession and a potential federal ban on certain weapons and accessories to the exemptions in the law, items that may well be obtained in interstate commerce are affected. Further, attempting to prevent federal officers from enforcing federal law presents rather clear supremacy clause issues.

In light of the foregoing, it will be important as the bill proceeds that the public be notified that the law is unlikely to result in the suspension of federal enforcement.

Please let me know if I can be of any further assistance in this matter.

KJS:plm
13-007.plm

Enclosure



LAWS OF ALASKA

2010

Source
CSHB 186(FIN) am

Chapter No. 23
SLA 10

AN ACT

Declaring that certain firearms and accessories are exempt from federal regulation.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Declaring that certain firearms and accessories are exempt from federal regulation.

2

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

5 FINDINGS. The legislature finds that the authority for this Act is the following:

6 (1) the Tenth Amendment to the Constitution of the United States guarantees
7 to the states and their people all powers not granted to the federal government elsewhere in
8 the constitution and reserves to the state and people of Alaska certain powers as they were
9 intended at the time that Alaska was admitted to statehood in 1959; the guaranty of those
10 powers is a matter of contract between the state and people of Alaska and the United States as
11 of the time that the compact with the United States was agreed upon and adopted by Alaska
12 and the United States in 1959;

13 (2) the Ninth Amendment to the Constitution of the United States guarantees

1 to the people rights not granted in the constitution and reserves to the people of Alaska certain
2 rights as they were intended at the time that Alaska was admitted to statehood in 1959; the
3 guaranty of those rights is a matter of contract between the state and people of Alaska and the
4 United States as of the time that the compact with the United States was agreed upon and
5 adopted by Alaska and the United States in 1959;

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

11 (4) the Second Amendment to the Constitution of the United States reserves to
12 the people the right to keep and bear arms as that right was intended at the time that Alaska
13 was admitted to statehood in 1959, and the guaranty of the right is a matter of contract
14 between the state and people of Alaska and the United States as of the time that the compact
15 with the United States was agreed upon and adopted by Alaska and the United States in 1959;

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

19 * Sec. 2. AS 44.99 is amended by adding a new section to read:

20 **Article 5. Alaska Firearms Freedom Act.**

21 **Sec. 44.99.500. State policy, declarations, and requirements concerning**
22 **certain firearms not in interstate commerce and not subject to federal regulation.**

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

28 (b) This section applies to a firearm, a firearm accessory, or ammunition that
29 is manufactured in this state from basic materials and that can be manufactured
30 without the inclusion of any significant parts imported from another state. Generic and
31 insignificant parts that have other manufacturing or consumer product applications are

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

15 (c) A firearm manufactured or sold in this state and not subject to federal
16 regulation under this section must have the words "Made in Alaska" clearly stamped
17 on a central metallic part, such as the receiver or frame.

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

23 (e) In this section,

24 (1) "firearm accessory" means an item that is used in conjunction with
25 or mounted on a firearm but is not essential to the basic function of a firearm,
26 including a telescopic or laser sight, magazine, flash or sound suppressor, folding or
27 aftermarket stock and grip, speedloader, ammunition carrier, and light for target
28 illumination;

29 (2) "generic and insignificant parts" includes springs, screws, nuts, and
30 pins;

31 (3) "manufactured" means a firearm, a firearm accessory, or

1 ammunition that has been created from basic materials for functional usefulness,
2 including forging, casting, machining, or other processes for working materials.

3 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **APPLICABILITY.** AS 44.99.500, added by sec. 2 of this Act, applies to firearms,
6 firearm accessories, and ammunition that are manufactured and retained in this state after
7 October 1, 2009.

THE WHITE HOUSE
Office of the Press Secretary

EMBARGOED UNTIL THE START OF THE PRESIDENT'S REMARKS
January 16, 2013

Gun Violence Reduction Executive Actions

Today, the President is announcing that he and the Administration will:

1. Issue a Presidential Memorandum to require federal agencies to make relevant data available to the federal background check system.
2. Address unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act, that may prevent states from making information available to the background check system.
3. Improve incentives for states to share information with the background check system.
4. Direct the Attorney General to review categories of individuals prohibited from having a gun to make sure dangerous people are not slipping through the cracks.
5. Propose rulemaking to give law enforcement the ability to run a full background check on an individual before returning a seized gun.
6. Publish a letter from ATF to federally licensed gun dealers providing guidance on how to run background checks for private sellers.
7. Launch a national safe and responsible gun ownership campaign.
8. Review safety standards for gun locks and gun safes (Consumer Product Safety Commission).
9. Issue a Presidential Memorandum to require federal law enforcement to trace guns recovered in criminal investigations.
10. Release a DOJ report analyzing information on lost and stolen guns and make it widely available to law enforcement.
11. Nominate an ATF director.
12. Provide law enforcement, first responders, and school officials with proper training for active shooter situations.
13. Maximize enforcement efforts to prevent gun violence and prosecute gun crime.
14. Issue a Presidential Memorandum directing the Centers for Disease Control to research the causes and prevention of gun violence.
15. Direct the Attorney General to issue a report on the availability and most effective use of new gun safety technologies and challenge the private sector to develop innovative technologies.
16. Clarify that the Affordable Care Act does not prohibit doctors asking their patients about guns in their homes.
17. Release a letter to health care providers clarifying that no federal law prohibits them from reporting threats of violence to law enforcement authorities.
18. Provide incentives for schools to hire school resource officers.

EMBARGOED

19. Develop model emergency response plans for schools, houses of worship and institutions of higher education.
20. Release a letter to state health officials clarifying the scope of mental health services that Medicaid plans must cover.
21. Finalize regulations clarifying essential health benefits and parity requirements within ACA exchanges.
22. Commit to finalizing mental health parity regulations.
23. Launch a national dialogue led by Secretaries Sebelius and Duncan on mental health.

Rep. Shirkey offered the following resolution:

House Resolution No. 18.

A resolution to reaffirm the right to keep and bear arms under the Michigan Constitution, the supremacy of the Second Amendment over the Commerce Clause, the limitations of the Office of the President to ban firearms by use of executive order, and the intent of the Michigan Legislature to not recognize or enforce unconstitutional or otherwise unlawful firearm restrictions placed upon its citizens.

Whereas, Article I, Section 6 of the Michigan Constitution, clearly affirms a right to keep and bear arms. This provision prescribes that the primary purpose of the right to keep and bear arms is not related solely to hunting, but clearly allows Michigan citizen's to be able to protect one's self and family from the private lawlessness of other persons or potential tyranny of governments; and

Whereas, There are also federalism provisions under the United States Constitution that prohibit the federal government from contradicting those portions of Michigan's firearms law that are clearly under direct state control. The Tenth Amendment guarantees to the states and their people all powers not granted to the federal government elsewhere in the United States Constitution; and

Whereas, Article I, Section 8 of the United States Constitution provides the federal government with the power to regulate commerce. However, this provision only empowers the government to regulate commerce between states and cannot be used to impose regulations onto firearms beyond this scope or that are at cross-purposes with the Second Amendment; and

Whereas, The President of the United States may not issue executive orders that would violate the separation-of-powers doctrine by inserting the executive branch into areas that are beyond presidential authority, within the arena of Congressional legislation, or otherwise incompatible with the express or implied will of Congress; and

Whereas, Several new federal laws or executive actions have been proposed that would overstep the bounds of both the Second Amendment, Michigan's sovereign constitution, and its firearm laws; and

Whereas, It is not the intent of the Michigan legislature to pass laws that would prohibit, ban, or limit the sales of semi-automatic firearms, especially when based upon mere cosmetic reasons or misclassifications. Furthermore, it is not the intent of the Michigan Legislature to pass laws that would prohibit, ban, or limit the use of otherwise lawful ammunition, to mandate the use of "coded," "serialized," or "chipped" ammunition, to otherwise create databases of such ammunition, or to outlaw the ability of people to hand-load otherwise lawful ammunition. Furthermore, it is not the intent of the Michigan Legislature to regulate the family or private transfer or sale of firearms beyond what is currently required under law; and

Whereas, It is not the intent of the Michigan Legislature to pass laws that would mandate the use of so called "smart gun" technology that wirelessly or otherwise authenticates and enables a firearm to be used by only one person. Furthermore, it is not the intent of the Michigan Legislature to allow for licensing schemes for the purchase of firearms that would mandate facial recognition, iris scans, fingerprinting, or other advanced biometric technology. Furthermore, it is not the intent of the Michigan Legislature to pass laws that would infringe upon the ability of firearm owners to keep such weapons loaded and readily accessible within their homes, or that would allow for officials to inspect firearms within their homes without first obtaining a valid search warrant issued in conjunction with a lawful criminal investigation; and

Whereas, It is not the intent of the Michigan Legislature to direct health care professionals to make routine patient inquiries into firearm ownership, to disseminate such information to outside parties, or to prohibit firearm ownership to individuals based upon their reporting of the past use of pain killers or other medications for surgical recovery, dental procedures, and other legitimate medical purposes. Furthermore, it is not the intent of the Michigan Legislature to pass laws that

would make firearm ownership or use dependent upon the purchase of personal insurance policies or other similar risk instruments; and

Whereas, It is however the intent of the Michigan Legislature to ensure that such firearm schemes are not imposed upon the citizens of Michigan by either the federal government or itself, and would view such infringements as violations of both the Second Amendment and the Michigan Constitution; now, therefore, be it

Resolved by the House of Representatives, That we reaffirm the right to keep and bear arms under the Michigan Constitution, the supremacy of the Second Amendment over the Commerce Clause, the limitations of the Office of the President to ban firearms by use of executive order, and the intent of the Michigan Legislature to not recognize or enforce unconstitutional firearm restrictions placed upon its citizens; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, members of the Michigan congressional delegation, and the head of the Bureau of Alcohol, Tobacco, and Firearms.

SENATE BILL 40

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 39 and Title 40, relative to firearms.

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

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

38-3-124.

(a) On or after the effective date of this act, no public funds of this state or any political subdivision of this state shall be allocated to the implementation, regulation or enforcement of any federal law, executive order, rule or regulation that becomes effective on or after January 1, 2013, that adversely affects a United States citizen's ability to lawfully possess or carry firearms in this state.

(b) On or after the effective date of this act, no personnel or property of this state or any political subdivision of this state shall be allocated to the implementation, regulation or enforcement of any federal law, executive order, rule or regulation that becomes effective on or after January 1, 2013, that adversely affects a United States citizen's ability to lawfully possess or carry firearms in this state unless federal funding for such implementation, regulation or enforcement is provided to the state or political subdivision.

(c) For purposes of this section, "firearm" has the same meaning as defined in § 39-11-106.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.

HOUSE BILL 42

By Carr J

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 7; Title 8; Title 38; Title 39; Title 41; Title 49
and Title 62, relative to firearms.

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by adding the following language as a new, appropriately designated section:

(a) Any federal law, statute, rule, regulation, or executive order implemented or executed on or after January 1, 2013 shall be unenforceable within the borders of this state if the law, statute, rule, regulation, or executive order attempts to:

- (1) Ban or restrict ownership of a semi automatic firearm, firearm accessory, or ammunition; or
- (2) Require any firearm, firearm accessory, or ammunition to be registered in any manner.

(b) No public employee, public official, or dealer selling any firearm in this state shall enforce or attempt to enforce any federal law, statute, rule, regulation, or executive order as described in subsection (a).

(c) Any official, agent, or employee of the United States government who enforces or attempts to enforce any federal law, statute, rule, regulation, or executive order as described in subsection (a) upon a firearm, a firearm accessory, or ammunition that is owned or manufactured commercially or privately in this state and that remains exclusively within the borders of this state shall be guilty of a Class A misdemeanor.

(d) The attorney general and reporter shall defend a citizen of this state who is prosecuted by the United States government for a violation of federal law, statute, rule, regulation, or executive order as described in subsection (a).

(e) For purposes of this section:

(1) "Public employee" means any individual who receives compensation from the state or any political subdivision thereof or any public governmental authority or corporation established for the performance of public functions; and

(2) "Public official" means an elected or appointed person in the executive, legislative, or judicial branch of the state or any political subdivision thereof.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

FIRST REGULAR SESSION

HOUSE BILL NO. 170

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GUERNSEY (Sponsor), CURTMAN, JOHNSON, HINSON, KOLKMEYER, SMITH (120), NEELY, HIGDON, DAVIS, WILSON, SHULL, LOVE, PHILLIPS, ROWLAND, RHOADS, MILLER, FOWLER, LANT, CRAWFORD, BROWN, REDMON, FRANKLIN, KEENEY, REIBOLDT, FITZPATRICK, PIKE, LAIR, BRATTIN, DUGGER, FITZWATER, BURLISON, PARKINSON, ELMER, MCCAHERTY, CONWAY (104), HOUGHTON, BERNSKOETTER, LICHTENEGGER, ZERR, FLANIGAN, ALLEN, SCHIEBER, KELLEY (127), HICKS, RIDDLE, WALKER, HANSEN, WHITE, NETH, MUNTZEL, REMOLE, GATSCHENBERGER, FREDERICK, SPENCER, MOLENDORP, MCGAUGH, HURST, COOKSON, ROSS, POGUE, LEARA AND THOMSON (Co-sponsors).

0894H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 571, RSMo, by adding thereto one new section relating to firearms, with a penalty provision and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 571, RSMo, is amended by adding thereto one new section, to be
2 known as section 571.048, to read as follows:

571.048. 1. It shall be unlawful for any officer or employee of this state, or any
2 political subdivision, or any federal firearms dealer licensed under 19 U.S.C. Section 923
3 to enforce or attempt to enforce any act, law, statute, rule, or regulation of the federal
4 government relating to a personal firearm, firearm accessory, or ammunition that is owned
5 or manufactured commercially or privately in the state of Missouri and that remains
6 exclusively within the boundaries of the state of Missouri.

7 2. Any official, agent, or employee of the federal government who enforces or
8 attempts to enforce any act, order, law, statute, rule, or regulation of the federal
9 government upon a personal firearm, a firearm accessory, or ammunition that is owned
10 or manufactured commercially or privately in the state of Missouri and that remains
11 exclusively within the borders of the state of Missouri shall be guilty of a class D felony.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

12 **3. Any person in violation of a federal law relating to the manufacture, sale,**
13 **transfer, or possession of a firearm, a firearm accessory, or ammunition owned or**
14 **manufactured and retained exclusively with the boundaries of the state of Missouri may**
15 **request the attorney general to defend him or her for such violation.**

16 **4. Any federal law, rule, regulation, or order created or effective on or after**
17 **January 1, 2013 shall be unenforceable in the state of Missouri if the law, rule, regulation,**
18 **or order attempts to:**

19 **(1) Ban or restrict ownership of a semi-automatic firearm or any magazine of a**
20 **firearm; or**

21 **(2) Require any firearm, magazine, or other firearm accessory to be registered in**
22 **any manner.**

 Section B. Because immediate action is necessary to protect the rights of the citizens of
2 this state the enactment of section 571.048 of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the enactment of section
5 571.048 of section A of this act shall be in full force and effect upon its passage and approval.

✓

By: Otto

H.B. No. 553

A BILL TO BE ENTITLED

1

AN ACT

2 relating to firearms and the preservation of the Second Amendment
3 to the United States Constitution; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. SECTION 1. (a) This Act shall be known as the "Second
6 Amendment Preservation Act."

7 (b) The Legislature of the State of Texas hereby finds:

8 (1) Article IV, Clause 2 of the United States
9 Constitution provides: "This Constitution, and the laws of the
10 United States which shall be made in pursuance thereof . . . shall
11 be the supreme law of the land."

12 (2) The Kentucky Resolutions of 1798, and 1799 -- that
13 State's official response and opposition to the federal
14 government's Alien & Sedition Acts, which criminalized speech
15 critical of the federal government in a clear violation of the First
16 Amendment -- were authored by Thomas Jefferson, and provide in
17 part:

18 Resolved, That the several states composing the United
19 States of America, are not united on the principle of
20 unlimited submission to their general government; but
21 that by compact, under the style and title of a
22 Constitution for the United States, and of amendments
23 thereto, they constituted a general government for
24 special purposes, delegated to that government certain

1 definite powers, reserving, each state to itself the
2 residuary mass of right to their own self-government;
3 and that whensoever the general government assumes
4 undelegated powers, its acts are unauthoritative,
5 void, and of no force: That to this compact each state
6 acceded as a state, and is an integral party, its
7 co-states forming as to itself, the other party: That
8 the government created by this compact was not made the
9 exclusive or final judge of the extent of the powers
10 delegated to itself; since that would have made its
11 discretion, and not the Constitution, the measure of
12 its powers; but that, as in all other cases of compact
13 among parties having no common judge, each party has an
14 equal right to judge for itself, as well of
15 infractions, as of the mode and measure of redress.

16 (1798)

17 That the principle and construction contended by
18 sundry of the state legislatures, that the general
19 government is the exclusive judge of the extent of the
20 powers delegated to it, stop nothing short of
21 despotism, since the discretion of those who
22 administer the government, and not the Constitution,
23 would be the measure of their powers: That the several
24 states who formed that instrument being sovereign and
25 independent, have the unquestionable right to judge of
26 its infraction, and that a nullification by those
27 sovereignties, of all unauthorized acts done under

1 color of that instrument, is the rightful remedy.
2 (1799)

3 (3) The Tenth Amendment to the United States
4 Constitution provides: "The powers not delegated to the United
5 States by the Constitution, nor prohibited by it to the States, are
6 reserved to the States respectively, or to the people."

7 (4) The Ninth Amendment to the United States
8 Constitution provides: "The enumeration in the Constitution, of
9 certain rights, shall not be construed to deny or disparage others
10 retained by the people."

11 (5) The Second Amendment to the United States
12 Constitution provides: "A well-regulated militia being necessary
13 to the security of a free state, the right of the people to keep and
14 bear arms shall not be infringed."

15 (6) That all federal acts, laws, executive orders,
16 agency orders, and rules or regulations of all kinds with the
17 purpose, intent, or effect of confiscating any firearm, banning any
18 firearm, limiting the size of a magazine for any firearm, imposing
19 any limit on the ammunition that may be purchased for any firearm,
20 taxing any firearm or ammunition therefore, or requiring the
21 registration of any firearm or ammunition therefore, infringes upon
22 Texan's right to bear arms in direct violation of the Second
23 Amendment to the Constitution of the United States, and therefore,
24 any such law is not made in pursuance of the Constitution, is not
25 authorized by the Constitution, and thus, is not the supreme law of
26 the land, and consequently, is invalid in this State and shall be
27 further considered null and void and of no effect in this State.

1 SECTION 2. Chapter 46, Penal Code, is amended by adding
2 Section 46.16 to read as follows:

3 Sec. 46.16. Second Amendment Shall Remain Inviolate;
4 Offences; Penalties.

5 (a) A person who is a Peace Officer, State Officer, or State
6 Employee commits an offense if the person, while acting under color
7 of the person's office or employment, intentionally enforces or
8 attempts to enforce any acts, laws, executive orders, agency
9 orders, rules or regulations of any kind whatsoever of the United
10 States government relating to confiscating any firearm, banning any
11 firearm, limiting the size of a magazine for any firearm, imposing
12 any limit on the ammunition that may be purchased for any firearm,
13 taxing any firearm or ammunition therefore, or requiring the
14 registration of any firearm or ammunition therefore.

15 (b) A person who is a public servant commits an offense if
16 the person, while acting under color of the person's office or
17 employment, intentionally enforces or attempts to enforce any acts,
18 laws, executive orders, agency orders, rules or regulations of any
19 kind whatsoever of the United States government relating to
20 confiscating any firearm, banning any firearm, limiting the size
21 of a magazine for any firearm, imposing any limit on the ammunition
22 that may be purchased for any firearm, taxing any firearm or
23 ammunition therefore, or requiring the registration of any firearm
24 or ammunition therefore.

25 (c) For purposes of Subsections (a) and (b):

26 (1) "Firearm" is defined at Penal Code §46.01; "Peace
27 Officer" is defined at Government Code §614.001; and "State

1 Officer" and "State Employee" are defined at Government Code
2 §572.002.

3 (2) "Public servant," includes an officer, employee,
4 or agent of the United States; a branch, department, or agency of
5 the United States; another person acting under a contract with a
6 branch, department, or agency of the United States to provide a law
7 enforcement or security service; or any other person acting under
8 color of federal law.

9 (3) A person acts under color of the person's office
10 or employment if the person acts or purports to act in an official
11 capacity or takes advantage of such actual or purported capacity.

12 (4) It is a defense to prosecution for an offense
13 under Subsection (b) that the person performed the act consistent
14 with an explicit and applicable grant of federal statutory
15 authority that is consistent with the United States Constitution.

16 (d) An offense under Subsection (a) is a Class B
17 misdemeanor punishable by confinement for a term not to exceed 180
18 days, a fine of not more than \$5,000, or both the confinement and
19 the fine.

20 (e) An offense under Subsection (b) is a Class A misdemeanor
21 punishable by confinement for a term not to exceed one year, a fine
22 of not more than \$10,000, or both the confinement and the fine.

23 SECTION 3. (a) This section applies only to a prosecution
24 of an offense under Section 46.16 Penal Code, as added by this Act,
25 in which the defendant was, at the time of the alleged offense,
26 acting under the color of federal law.

27 (b) If the government of the United States, the defendant,

1 or any other party challenges the validity of Section 46.16, Penal
2 Code, as added by this Act, on any grounds including
3 unconstitutionality, preemption, or sovereign immunity, the
4 Attorney General of Texas with the consent of the appropriate local
5 county or district attorney, as necessary, shall take any and all
6 actions required on behalf of the State to defend the validity of
7 the statute.

8 SECTION 4. This Act shall be construed, as a matter of
9 state law, to be enforceable up to but no further than the maximum
10 possible extent consistent with federal constitutional
11 requirements, even if that construction is not readily apparent,
12 as such constructions are authorized only to the extent necessary
13 to save the statute from judicial invalidation.

14 SECTION 5. Every provision in this Act and every
15 application of the provisions in this Act are severable from each
16 other as a matter of state law. If any application of any provision
17 in this Act to any person or group of persons or circumstances is
18 found by a court to be invalid, the remainder of this Act and the
19 application of the Act's provisions to all other persons and
20 circumstances may not be affected. All constitutionally valid
21 applications of this Act shall be severed from any applications
22 that a court finds to be invalid, leaving the valid applications in
23 force, because it is the legislature's intent and priority that the
24 valid applications be allowed to stand alone. Even if a reviewing
25 court finds a provision of this Act invalid in a large or
26 substantial fraction of relevant cases, the remaining valid
27 applications shall be severed and allowed to remain in force.

1 SECTION 6. REPORT. The Texas Department of Public Safety
2 shall immediately report to the governor, attorney general, and the
3 legislature any attempt by the federal government to implement or
4 enforce any law in violation of this Act through the Texas
5 Department of Public Safety, or any other state or local law
6 enforcement agency.

7 SECTION 7. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.

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A BILL

9

10
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING ARTICLE 9 TO CHAPTER 31, TITLE 23,
13 TO ENACT THE "SOUTH CAROLINA FIREARMS FREEDOM
14 ACT", TO PROVIDE THAT A FIREARM, FIREARM
15 ACCESSORY, OR AMMUNITION MANUFACTURED AND
16 RETAINED IN SOUTH CAROLINA IS EXEMPT FROM
17 FEDERAL REGULATION UNDER THE COMMERCE
18 CLAUSE OF THE CONSTITUTION OF THE UNITED
19 STATES.

20

21 Whereas, the tenth amendment to the United States Constitution
22 guarantees and reserves for the states all powers not granted to the
23 federal government in the Constitution; and

24

25 Whereas, the ninth amendment to the United States Constitution
26 guarantees to the people rights not granted in the Constitution and
27 reserves to the people of South Carolina certain rights. The
28 guaranty of those rights is a matter of contract between the state
29 and people of South Carolina and the United States; and

30

31 Whereas, the regulation of intrastate commerce is vested in the
32 states under the ninth and tenth amendments to the United States
33 Constitution, particularly if not expressly preempted by federal
34 law. Congress has not expressly preempted state regulation of
35 intrastate commerce pertaining to the manufacture on an intrastate
36 basis of firearms, firearms accessories, and ammunition; and

37

38 Whereas, the second amendment to the United States Constitution
39 reserves to the people the right to keep and bear arms as that right
40 was understood at the time that South Carolina was admitted to
41 statehood in 1788, and the guaranty of the right is a matter of
42 contract between the state and people of South Carolina and the

1 United States as of the time that the compact with the United
2 States was agreed upon and adopted by South Carolina and the
3 United States in 1788; and

4

5 Whereas, Article I, Section 20 of the South Carolina Constitution
6 clearly secures to South Carolina citizens, and prohibits
7 government interference with, the right of individual South
8 Carolina citizens to keep and bear arms. This constitutional
9 protection is unchanged from the 1895 South Carolina
10 Constitution, which was approved by Congress and the people of
11 South Carolina, and the right exists as it was understood at the time
12 that the compact with the United States was agreed upon and
13 adopted by South Carolina and the United States in 1895. Now,
14 therefore,

15

16 Be it enacted by the General Assembly of the State of South
17 Carolina:

18

19 SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended
20 by adding:

21

22

“Article 9

23

24

South Carolina Firearms Freedom Act

25

26 Section 23-31-700. This article may be cited as the ‘South
27 Carolina Firearms Freedom Act’.

28

29 Section 23-31-705. For purposes of this article:

30 (1) ‘Borders of South Carolina’ means the boundaries of South
31 Carolina described in Article I, Section 1 of the 1895 South
32 Carolina Constitution.

33 (2) ‘Firearms accessories’ means items that are used in
34 conjunction with or mounted upon a firearm but are not essential to
35 the basic function of a firearm, including, but not limited to,
36 telescopic or laser sights, magazines, flash or sound suppressors,
37 folding or aftermarket stocks and grips, speedloaders, ammunition
38 carriers, and lights for target illumination.

39 (3) ‘Generic and insignificant parts’ includes, but is not limited
40 to, springs, screws, nuts, and pins.

41 (4) ‘Manufactured’ means that a firearm, a firearm accessory,
42 or ammunition has been created from basic materials for functional

1 usefulness, including, but not limited to, forging, casting,
2 machining, or other processes for working materials.

3

4 Section 23-31-710. (A) A personal firearm, a firearm
5 accessory, or ammunition that is manufactured commercially or
6 privately in South Carolina and that remains within the borders of
7 South Carolina is not subject to federal law or federal regulation,
8 including registration, under the authority of Congress to regulate
9 interstate commerce.

10 (B) This section applies to a firearm, a firearm accessory, or
11 ammunition that is manufactured in South Carolina from basic
12 materials and that can be manufactured without the inclusion of
13 any significant parts imported from another state.

14 (1) Generic and insignificant parts that have other
15 manufacturing or consumer product applications are not firearms,
16 firearms accessories, or ammunition.

17 (2) Basic materials such as unmachined steel and unshaped
18 wood are not firearms, firearms accessories, or ammunition.

19 (C) Basic materials are subject only to intrastate commerce
20 regulation.

21 (D) Firearms accessories that are imported into South Carolina
22 from another state and that are subject to federal regulation as
23 being in interstate commerce do not subject a firearm to federal
24 regulation under interstate commerce because they are attached to
25 or used in conjunction with a firearm in South Carolina.

26

27 Section 23-31-715. This article does not apply to the
28 following:

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

30 (2) a firearm that has a bore diameter greater than one and one
31 half inches and that uses smokeless powder, not black powder, as a
32 propellant;

33 (3) ammunition with a projectile that explodes using an
34 explosion of chemical energy after the projectile leaves the
35 firearm; or

36 (4) a firearm that discharges two or more projectiles with one
37 activation of the trigger or other firing device.

38

39 Section 23-31-720. A firearm manufactured or sold in South
40 Carolina under must have the words 'Made in South Carolina'
41 clearly stamped on a central metallic part, such as the receiver or
42 frame."

43

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 548

By: Dahm

4
5 AS INTRODUCED

6 An Act relating to the right to bear arms; creating
7 the 2nd Amendment Preservation Act; providing short
8 title; declaring how a certain amendment reads and
9 what it guarantees; specifying certain duty of the
10 Legislature of this state; providing penalties for
11 certain violations of the Act; providing for
12 codification; and declaring an emergency.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1290.27 of Title 21, unless
16 there is created a duplication in numbering, reads as follows:

17 A. This act shall be known and may be cited as the "2nd
18 Amendment Preservation Act."

19 B. The Legislature of the State of Oklahoma declares that the
20 2nd Amendment guarantees an individual right to keep and bear arms
21 free from infringement; that federal acts, laws, orders, rules,
22 regulations, bans, or registration requirements regarding firearms
23 constitute an infringement on the individual right, are not
24 authorized by the Constitution of the United States and violate its
true meaning and intent as given by the founders and ratifiers, and
are hereby declared to be invalid in the State of Oklahoma, shall

1 not be recognized by this state, are specially rejected by this
2 state, and shall be considered null and void and of no effect in
3 this state.

4 C. It shall be the duty of the Legislature of this state to
5 adopt and enact any and all measures as may be necessary to prevent
6 the enforcement of all federal acts, laws, orders, rules,
7 regulations, bans or registration requirements regarding firearms
8 within the limits of this state.

9 D. Any official, agent, or employee of the United States
10 government or any employee of a corporation providing services to
11 the United States government that enforces or attempts to enforce an
12 act, order, law, statute, rule or regulation of the government of
13 the United States in violation of this act shall be guilty of a
14 felony and upon conviction shall, upon conviction, be punished by
15 imprisonment in the custody of the Department of Corrections not to
16 exceed five (5) years, or by a fine not exceeding Five Thousand
17 Dollars (\$5,000.00), or by both such fine and imprisonment.

18 E. Any public officer or employee of the State of Oklahoma or
19 any political subdivision of the state, that enforces or attempts to
20 enforce an act, order, law, statute, rule or regulation of the
21 government of the United States in violation of this act shall be
22 guilty of a misdemeanor and shall, upon conviction, be punished by
23 imprisonment in the county jail not to exceed two (2) years, or by a
24 fine not to exceed One Thousand Dollars (\$1,000.00), or by both such

1 fine and imprisonment.

2 SECTION 2. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6

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Introduced Version

SENATE BILL No. 130

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; 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, 2013.

Kruse

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.

Introduced

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

SENATE BILL No. 130

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:

SOURCE: IC 35-31.5-2-32.5; (13)IN0130.1.1. --> SECTION 1. IC 35-31.5-2-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 32.5. "Borders of Indiana", for purposes of IC 35-47-16, has the meaning set forth in IC 35-47-16-2.**

SOURCE: IC 35-31.5-2-134; (13)IN0130.1.2. --> SECTION 2. IC 35-31.5-2-134, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 134. (a) "Firearm accessory", for purposes of IC 35-47, has the meaning set forth in IC 35-47-1-5.1.**

(b) "Firearm accessory", for purposes of IC 35-47-16, has the meaning set forth in IC 35-47-16-3.

SOURCE: IC 35-31.5-2-143.5; (13)IN0130.1.3. --> SECTION 3. IC 35-31.5-2-143.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 143.5. "Generic and insignificant part", for purposes of IC 35-47-16, has the meaning set forth in IC 35-47-16-4.**

SOURCE: IC 35-31.5-2-192; (13)IN0130.1.4. --> SECTION 4. IC 35-31.5-2-192, AS ADDED BY P.L.114-2012,

SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 192. (a) "Manufacture", for purposes of IC 35-47-16, has the meaning set forth in IC 35-47-16-5.**

(b) "Manufacture", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-18.

SOURCE: IC 35-47-16; (13)IN0130.1.5. --> SECTION 5. IC 35-47-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

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, 2013.

(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 the part's 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:

(1) not firearms, firearm accessories, or ammunition; and

(2) not 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 the authority of the United States Congress to regulate 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 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.

HOUSE BILL NO. HB0104

Firearm Protection Act.

Sponsored by: Representative(s) Kroeker, Baker, Burkhart,
Jaggi, Miller, Piiparinen, Reeder and
Winters and Senator(s) Dockstader and Hicks

A BILL

for

1 AN ACT relating to firearms; providing that any federal law
2 which attempts to ban a semi-automatic firearm or to limit
3 the size of a magazine of a firearm or other limitation on
4 firearms in this state shall be unenforceable in Wyoming;
5 providing a penalty; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 6-8-405 is amended to read:

10

11 **6-8-405. Offenses and penalties; defense of Wyoming**
12 **citizens.**

13

14 (a) No public servant as defined in W.S. 6-5-101, or
15 dealer selling any firearm in this state shall enforce or
16 attempt to enforce any act, law, statute, rule or

1 regulation of the United States government relating to a
2 personal firearm, firearm accessory or ammunition that is
3 owned or manufactured commercially or privately in Wyoming
4 and that remains exclusively within the borders of Wyoming.

5
6 (b) Any official, agent or employee of the United
7 States government who enforces or attempts to enforce any
8 act, order, law, statute, rule or regulation of the United
9 States government upon a personal firearm, a firearm
10 accessory or ammunition that is owned or manufactured
11 commercially or privately in Wyoming and that remains
12 exclusively within the borders of Wyoming shall be guilty
13 of a ~~misdemeanor~~ felony and, upon conviction, shall be
14 subject to imprisonment for not ~~more~~ less than one (1) year
15 and one (1) day or more than five (5) years, a fine of not
16 more than ~~two thousand dollars (\$2,000.00)~~ five thousand
17 dollars (\$5,000.00), or both.

18
19 (c) The attorney general may defend a citizen of
20 Wyoming who is prosecuted by the United States government
21 for violation of a federal law relating to the manufacture,
22 sale, transfer or possession of a firearm, a firearm
23 accessory or ammunition owned or manufactured and retained
24 exclusively within the borders of Wyoming.

1

2 (d) Any federal law, rule, regulation or order
3 created or effective on or after January 1, 2013 shall be
4 unenforceable within the borders of Wyoming if the law,
5 rule, regulation or order attempts to:

6

7 (i) Ban or restrict ownership of a semi-
8 automatic firearm or any magazine of a firearm; or

9

10 (ii) Require any firearm, magazine or other
11 firearm accessory to be registered in any manner.

12

13 **Section 2.** This act is effective immediately upon
14 completion of all acts necessary for a bill to become law
15 as provided by Article 4, Section 8 of the Wyoming
16 Constitution.

17

18

(END)

//

Sheriffs, state lawmakers push back on gun control

Jeff Barnard / Associated Press | Posted: Thursday, January 17, 2013 6:36 am

GRANTS PASS, Ore. - From Oregon to Mississippi, President Barack Obama's proposed ban on new assault weapons and large-capacity magazines struck a nerve among rural lawmen and lawmakers, many of whom vowed to ignore any restrictions - and even try to stop federal officials from enforcing gun policy in their jurisdictions.

"A lot of sheriffs are now standing up and saying, 'Follow the Constitution,'" said Josephine County Sheriff Gil Gilbertson, whose territory covers the timbered mountains of southwestern Oregon.

But their actual powers to defy federal law are limited. And much of the impassioned rhetoric amounts to political posturing until - and if - Congress acts.

Senate Majority Leader Harry Reid, a Democrat, said Wednesday it's unlikely an assault weapons ban would actually pass the House of Representatives. Absent action by Congress, all that remains are 23 executive orders Obama announced that apply only to the federal government, not local or state law enforcement.

Gun advocates have seen Obama as an enemy despite his expression of support for the interpretation of the Second Amendment as a personal right to have guns. So his call for new measures - including background checks for all gun buyers and Senate confirmation of a director of the Bureau of Alcohol, Tobacco, Firearms and Explosives - triggered new vows of defiance.

In Mississippi, Gov. Phil Bryant, a Republican, urged the Legislature to make it illegal to enforce any executive order by the president that violates the Constitution.

"If someone kicks open my door and they're entering my home, I'd like as many bullets as I could to protect my children, and if I only have three, then the ability for me to protect my family is greatly diminished," Bryant said. "And what we're doing now is saying, 'We're standing against the federal government taking away our civil liberties.'"

Tennessee Republican state Rep. Joe Carr wants to make it a state crime for federal agents to enforce any ban on firearms or ammunition. Carr instead called for more armed guards at schools.

"We're tired of political antics, cheap props of using children as bait to gin up emotional attachment for an issue that quite honestly doesn't solve the problem," Carr said.

Legislative proposals to pre-empt new federal gun restrictions also have arisen in Wyoming, Utah and Alaska.

A Wyoming bill specifies that any federal limitation on guns would be unenforceable. It also would make it a state felony for federal agents to try to enforce restrictions.

"I think there are a lot of people who would want to take all of our guns if they could," said co-sponsor Rep. Kendell Kroeker, a Republican. "And they're only restrained by the opposition of the people, and other lawmakers who are concerned about our rights."

Republican state Sen. Larry Hicks credited Wyoming's high rate of gun ownership for a low rate of gun violence.

"Our kids grow up around firearms, and they also grow up hunting, and they know what the consequences are of taking a life," Hicks said. "We're not insulated from the real world in Wyoming."

In Utah, some Republicans are preparing legislation to exempt the state from federal gun laws - and fine any federal agents who try to seize guns. A bill in the Alaska House would make it a misdemeanor for a federal agent to enforce new restrictions on gun ownership.

While such proposals are eye-catching, they likely could never be implemented.

"The legislature can pass anything it wants," said Sam Kamin, a constitutional law professor at the University of Denver. "The Supremacy Clause of the Constitution makes that clearly unconstitutional. Where there's a conflict between state and federal law, the federal government is supreme."

Kamin and other legal experts said such disdain of Obama's proposals is reminiscent of former Confederate states' refusal to comply with federal law extending equal rights for blacks after the Civil War.

The National Sheriff's Association has supported administration efforts to combat gun violence after the Sandy Hook Elementary shootings. President Larry Amerson, sheriff of Calhoun, Ala., said he understands the frustrations of people in rural areas with the federal government. But he feels his oath of office binds him to uphold all laws.

"Any sheriff who knows his duty knows we don't enforce federal law, per se," said Amerson, a longtime firearms instructor and hunter.

Some rural sheriffs view the federal government as an adversary, with gun ownership at the core of that belief.

In Minnesota, Pine County Sheriff Robin Cole sent an open letter to residents saying he did not believe the federal government had the right to tell the states how to regulate firearms. He said he would refuse to enforce any federal mandate he felt violated constitutional rights.

The Constitutional Sheriffs and Peace Officers Association, based in Fredericksburg, Texas, encourages that point of view. Founder Richard Mack, a former sheriff of Apache County, Ariz., speaks regularly at gatherings of Tea Party groups and gun rights organizations.

"I will tell Mr. Obama and everybody else who wants to impose gun control in America, that whether you like it or not, it is against the law," said Mack. "Now we have good sheriffs who are standing up and defending the law against our own president."



More Mississippians respond to new gun control measures



By [Mississippi Press Staff](#)

on January 16, 2013 at 4:44 PM, updated January 16, 2013 at 7:37 PM

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PASCAGOULA, Mississippi -- President

Mississippi Secretary of State Delbert Hosemann

Obama's 23 executive orders on gun control drew swift reaction from Mississippi officials in addition to Gov. Phil Bryant.

Rep. Chris Brown, representing district 20 in the Mississippi Legislature, is finalizing a bill to be known as the "Firearms Freedom Act," according to a news release from Mississippi for Liberty.

In its current form, this measure would exclude firearms and ammunition manufactured in Mississippi from any federal regulations or bans as long as the firearm remains in the state of Mississippi.

The justification for such a law is that under the constitution the federal government has authority to regulate interstate commerce but not "intrastate" commerce thus protecting Mississippi manufacturers from federal regulation.

Aided by the recently formed grassroots organization Mississippi for Liberty, Brown's bill has been steadily gaining steam over the past several months through a campaign that involved internet activism and appearances at events such as gun shows.

Mississippi Secretary of State Delbert Hosemann issued the following statement through his office.

"President Obama circumventing Congress by limiting gun rights through Executive Order only silences the voice of Mississippians who oppose any restrictions on our Constitutional right to keep and possess firearms," Hosemann said.

"I applaud Governor Bryant, Speaker (Philip) Gunn, and members of the State Legislature who have pledged to block any attempt of the federal government to limit or restrict our Second Amendment right to bear arms."

U.S. Rep. Steven Palazzo indicated he would not support any of Obama's initiatives.

"I have heard from many of you regarding the gun control proposals the Obama administration is pushing," Palazzo said in a statement issued by his office. "As an American and citizen soldier, I am a tireless supporter of Second Amendment rights and the protection for individuals to keep and bear arms.

"The requests the president made of Congress today fly in the face of those rights, and demonstrate an increasingly reckless disregard for the Constitution and congressional authority. I will not support such measures.

"I also applaud Governor Bryant and the state legislature for taking actions to protect the rights of Mississippians at the state level.

"In the past I have supported countless measures defending your constitutional right to keep and bear arms, and I will continue to do so."

Mississippi Republican Sen. Thad Cochran said, "I have consistently opposed proposals which threaten the rights of law abiding citizens to own guns, and I will continue to do so as we enter this debate. The President's executive actions, as well as his legislative proposals, are cause for serious concern. It is my expectation that Congress will critically assess these ideas to determine what might actually work to improve public safety without infringing on the Second Amendment rights granted to citizens by our Constitution."

On his Facebook page, Charles Busby posted, "I was very proud to stand today with the Governor and the Speaker of the House to make it perfectly clear that we will not tolerate the disarmament of Mississippi's citizens by an over-reaching federal government and an unconstitutional executive order issued by a president who snubs his nose at the wisdom of our founding fathers. We are guaranteed the right to bear arms, not for the purposes of hunting, but to protect OUR republic from tyranny. I pray we are far from that need."

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http://www.salon.com/2013/01/11/wyoming_goper_pushes_ban_on_gun_bans/

FRIDAY, JAN 11, 2013 5:05 PM UTC

Wyoming GOper pushes ban on gun bans

State Rep. Kendell Kroeker introduced a bill to make implementing gun laws a felony in the state

BY JILLIAN RAYFIELD



(Credit: [David Acosta Allely](#) via [Shutterstock](#))

A Wyoming Republican has introduced legislation to prevent the state from implementing any federal bans on guns, saying that “If the federal government is going to pass laws taking back our rights, it is our right as a state to defend those rights.”

The [Huffington Post](#) reports:

State Rep. Kendell Kroeker (R-Evansville) has put forward a bill making it a felony to enforce in Wyoming any federal ban on assault weapons or high-capacity gun magazines, two proposals that [Biden’s gun control task force is likely to present](#) to President Barack Obama on Tuesday. The task force’s recommendations, of course, would have to be passed by Congress and signed by Obama in order to become law.

Kroeker said his bill, which would hit federal agents with up to five years in prison and a \$50,000 fine for attempting to enforce such bans, is designed to be proactive in preserving gun rights in Wyoming.

Kroeker explained that he wants “to get things ahead of the game” in case Biden’s measures make it through. “We take the Second Amendment seriously in Wyoming.”

“I take an oath to uphold, support and defend the Constitution of the United States and the constitution of Wyoming,” he told HuffPo. “I believe it is my duty to take that oath seriously. If the federal government is going to pass laws taking back our rights, it is our right as a state to defend those rights.”

Jillian Rayfield is an Assistant News Editor for Salon, focusing on politics. Follow her on Twitter at [@jillrayfield](#) or email her at jrayfield@salon.com.

- The Daily Caller - <http://dailycaller.com> -

Texas bill would block Obama's executive actions on guns

Posted By [Patrick Howley](#) On 6:47 PM 01/16/2013 @ 6:47 PM In [DC Exclusives - Original Reporting.Politics](#) | [No Comments](#)

Texas Republican legislators introduced a bill in the state House Wednesday to render President Barack Obama's gun control mandates null and void in the state of Texas.

H.B. No. 553, The Second Amendment Protection Act, was introduced by Rep. John Otto and co-sponsored by fellow Republican representatives Jim Pitts and Drew Darby.

The bill finds President Obama's newly introduced gun policies unconstitutional, though established constitutional law indicates that the bill may be more symbolic than practical.

Obama introduced his plan to prevent gun violence at a Wednesday press conference. The plan includes a federal assault weapons ban, a high-capacity magazine ban and 23 executive actions.

Otto's bill would make the executive actions invalid in the state of Texas.

"The Tenth Amendment to the United States Constitution provides: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,'" according to the bill.

"The Second Amendment to the United States Constitution provides: 'A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed,'" the bill reads.

The bill concludes that President Obama's federal gun control policies should not be recognized in the state of Texas.

"That all federal acts, laws, executive orders, agency orders, and rules or regulations of all kinds with 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, taxing any firearm or ammunition therefore, or requiring the registration of any firearm or ammunition therefore, infringes upon Texan's right to bear arms in direct violation of the Second Amendment to the Constitution of the United States. Therefore, any such law is not made in pursuance of the Constitution, is not authorized by the Constitution, and thus, is not the supreme law of the land, and consequently, is invalid in this State and shall be further considered null and void and of no effect in this State."

If the bill receives the support of 2/3 of the members of both houses of the Texas legislature, it will take effect immediately.

However, a constitutional provision known as the Supremacy Clause holds that federal laws, whether passed through Congress or made through a properly authorized executive order, "shall be the supreme law of the land."

"A state cannot pass a statute that blocks enforcement of an otherwise enforceable federal law," according to Stanford University law professor Jeffrey Fisher.

Nevertheless, the bill proves that some state lawmakers are willing to fight Obama's gun control policies in what will likely be a contentious start to the president's second term.

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Article printed from The Daily Caller: <http://dailycaller.com>

Several State Legislators Say No to Federal Gun Control Laws

BY SHUSHANNAH WALSH
Jan. 17, 2013—

abcnews.go.com



Lawmakers React Swiftly, Opposing Obama's Proposals

No sooner had President Barack Obama laid out his gun control proposals Wednesday, than some states responded, saying they would move to block the laws' enforcement. Some state legislators were even working feverishly to block the measures before the president proposed them.

Mississippi

After the president's announcement, Mississippi Gov. Phil Bryant joined House Speaker Phil Gunn at a press conference at the State Capitol in Jackson to denounce the president's gun control measures and call on the legislature to make it illegal to enforce any of the new federal gun control measures.

"We are here to assure Mississippians that we are going to continue to fight for their Second Amendment rights to bear arms," Gunn said. "These are dangerous times, and people have a constitutional right to protect themselves and their property."

Bryant also tweeted out a letter he wrote to Gunn and Lt. Gov. Tate Reeves, saying that the president's Executive Order "infringes our constitutional right to keep and bear arms as never before in American history.

"I am asking that you immediately pass legislation that would make any unconstitutional order by the President illegal to enforce in Mississippi by state or local law enforcement," Bryant wrote in the letter, adding that other states have "introduced similar measures and I believe we will be successful in preventing this overreaching and anti-constitutional violation of our rights as American citizens."

Texas

On Monday, Texas State Rep. Steve Toth, who represents an area near Houston, announced he would file legislation "assisting the protection of the Second Amendment."

Named the "Firearms Protection Act," the bill would make "any federal law banning semi-automatic firearms or limiting the size of gun magazines unenforceable within the state's boundaries" and most notably "anyone trying to enforce a federal gun ban could face felony charges under the proposal."

"We can no longer depend on the Federal Government and this Administration to uphold a Constitution that they no longer believe in," Toth said in a release. "The liberties of the People of Texas and the sovereignty of our State are too important to just let the Federal

Government take them away."

Missouri

On Wednesday in Missouri, State Sen. Brian Munzlinger, who represents Williamstown, filed legislation he says will seek "to keep far-reaching regulations from violating the constitutional rights of all Missourians."

"Today's extreme grab of power was created under executive order and not heard publicly," Munzlinger said in a statement. "We cannot let the total disregard of our constitutional rights continue."

His proposal would make the president's Executive Order or any federal law banning semi-automatic weapons not already on the books "unenforceable" and the bill notably, like in Texas, would "make it a crime for any officer, government agent, or employee from enforcing a law or order declared unenforceable," effectively making it a crime for the feds to enforce the bill in the state.

Another Missouri state legislator, Rep. Casey Guernsey, introduced a similar bill that "specifies that it is unlawful for any officer or employee of the state or any political subdivision, or any licensed federal firearms dealer to enforce, or attempt to enforce, any federal law relating to a personal firearm, firearm accessory, or ammunition that is owned or manufactured in this state and remains exclusively within the boundaries of the state," according to Guernsey's legislative aide Ryan Clearwater.

Tennessee

Lawmakers in Tennessee laid out similar legislation. State Rep. Jeremy Faison and Sen. Frank Nicely proposed a bill that would make it illegal for any "public funds" of the state to be "allocated to the "implementation, regulation or enforcement of any federal law, executive order, rule or regulation" that is passed and "adversely affects a United States citizen's ability to lawfully possess or carry firearms in this state."

Faison also put out a statement saying while he "appreciates" some of the president's plans like "additional school resource officers, training for schools, churches, and higher education," as well as "being tougher on gun crimes," he disagrees with aspects of the proposal such as the "vague" term "military assault weapons" and private sales needing background checks. "10 years of an assault weapons ban did nothing to stop shooting crimes. How will it work now?" Faison asked in a statement.

Wyoming

In Wyoming, state Rep. Kendell Kroeker was joined by several other state legislators in proposing a bill that reads "any federal law which attempts to ban a semi-automatic firearm or to limit the size of a magazine of a firearm or other limitation on firearms in this state shall be unenforceable in Wyoming."

Like other states, the bill would make it a felony for a federal employee to enforce federal legislation on a firearm or ammunition "owned or manufactured commercially or privately in Wyoming" that remains in the state.

Oregon

And it's not just state legislators. A sheriff in Oregon, Tim Mueller of Linn County, wrote a letter to Vice President Joe Biden on Monday which he posted on his [Facebook page](#), telling Biden, "We must not allow, nor shall we tolerate, the actions of criminals no matter how heinous the crimes to prompt politicians to enact laws that will infringe upon the liberties of responsible citizens who have broken no laws."

"Any federal regulation enacted by Congress or by executive order of the President offending the constitutional rights of my citizens shall not be enforced by me or my deputies, nor will I permit the enforcement of any constitutional regulations or orders by federal officers within the borders of Linn County Oregon," Mueller wrote in the letter.

Kentucky

Another sheriff in Kentucky, Denny Peyman of Jackson County, told [The Lexington Herald-Leader](#) that he too would not enforce any laws he considers unconstitutional, saying he has "a team of attorneys to step up with me if necessary to be sure the Second Amendment is upheld," adding that he considers it "a moral obligation."

Even before the Dec. 14 [Sandy Hook school shooting](#) that left 20 first graders and six educators dead, eight states had adopted similar laws that would exempt guns made in those states from federal regulations as long as the firearms remain in those states.

ABC News' Whitney Lloyd contributed to this report.

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Sheriffs will not enforce Obama gun control laws; List reasons for defiance

CIVIL LIBERTIES | JANUARY 19, 2013 | BY: ANTHONY JAY BLACKWELL |



A growing number of sheriffs will not enforce President Obama's gun control proposals, should they become law. Credits: Ethan Miller / Getty Images

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In the past 24 hours, sheriffs in [Arizona](http://reason.com/blog/2013/01/18/arizona-sheriff-wont-cooperate-with-any) (<http://reason.com/blog/2013/01/18/arizona-sheriff-wont-cooperate-with-any>), [California](http://www.mynews4.com/news/story/El-Dorado-County-Sheriff-D-Agostini-Guns-Biden/7kFZd_mFvkv1nLTsJseWnA.csp) (http://www.mynews4.com/news/story/El-Dorado-County-Sheriff-D-Agostini-Guns-Biden/7kFZd_mFvkv1nLTsJseWnA.csp) and [Colorado](http://kwgn.com/2013/01/18/larimer-county-sheriff-threatens-not-to-enforce-new-gun-laws-9/) (<http://kwgn.com/2013/01/18/larimer-county-sheriff-threatens-not-to-enforce-new-gun-laws-9/>) have publicly and explicitly stated that they will not enforce proposed federal [gun control](http://www.examiner.com/topic/gun-control) (<http://www.examiner.com/topic/gun-control>) laws sought by President Obama. Speaking directly to the President's Wednesday, Jan. 16, 2013 proposals, these sheriffs have made their support of Second Amendment rights unequivocally clear:

- El Dorado County, California Sheriff (<http://www.examiner.com/topic/sheriff>) John D'Agostini, according to local news station [KRNK](http://www.mynews4.com/news/story/El-Dorado-County-Sheriff-D-Agostini-Guns-Biden/7kFZd_mFvkv1nLTsJseWnA.csp) (http://www.mynews4.com/news/story/El-Dorado-County-Sheriff-D-Agostini-Guns-Biden/7kFZd_mFvkv1nLTsJseWnA.csp) on Jan. 19, 2013 ("The purpose of this letter is to go on record of re-affirming my oath of office and making it clear that I and my staff will never violate [our oath of office] by being pressured into enforcing any unconstitutional provision, law or executive order.");
- Fresno County, California Sheriff Margaret Mims, according to local news station [KFSN](http://abclocal.go.com/kfsn/story?section=news/local&id=8960103) (<http://abclocal.go.com/kfsn/story?section=news/local&id=8960103>) on Jan. 18, 2013 ("So I have sent a letter to the White House saying I will not enforce any unconstitutional gun control laws.");
- Yavapai, Arizona Sheriff Scott Mascher, according to a Jan. 18, 2013 internal Sheriff memorandum published by media outlet [Reason](http://reason.com/blog/2013/01/18/arizona-sheriff-wont-cooperate-with-any) (<http://reason.com/blog/2013/01/18/arizona-sheriff-wont-cooperate-with-any>) ("As Sheriff, I refuse to participate or cooperate with any unconstitutional order that will infringe upon our 2nd amendment rights."); and
- Larimer County, Colorado Sheriff Justin Smith, according local television station [KWGN](http://kwgn.com/2013/01/18/larimer-county-sheriff-threatens-not-to-enforce-new-gun-laws-9/) (<http://kwgn.com/2013/01/18/larimer-county-sheriff-threatens-not-to-enforce-new-gun-laws-9/>), also on Jan. 18, 2013 ("As Sheriff, I will not: Enforce unconstitutional federal laws; Obey unconstitutional laws; Allow others to violate the Constitutional Rights of those in my county.")

This brings the total, *verified* number of sheriffs who have *specifically pledged* not enforce President Obama's proposed federal [gun laws](http://www.examiner.com/topic/gun-laws) (<http://www.examiner.com/topic/gun-laws>) to 39. To a person, they consider President Obama's current gun control proposals unconstitutional and an illegal infringement of Second Amendment rights. We provide that [list](http://www.examiner.com/topic/list) (<http://www.examiner.com/topic/list>) to you below. The sheriffs on the list have made their comments *after* the President officially announced his proposals on Wednesday, Jan. 16, 2013. This list *does not* include sheriffs who have voiced *general* opposition to gun control or who have made their statements before the President's official Jan. 16, 2013 proposals.

Note: We are constantly searching for and updating our list with verifiable "non-enforcement" sheriffs. If you know of other sheriffs in and around your community who should be included here, please add a comment below with an appropriate link for inclusion and credit on the list.

The complete, verified list as of Saturday evening, Jan. 19, 2013, is as follows:

Oregon sheriffs (9) (as reported by **Fox News** (<http://nation.foxnews.com/gun-control/2013/01/17/across-heartland-sheriffs-vow-fight-obamas-gun-ban>), online newspaper **OregonLive** (http://www.oregonlive.com/politics/index.ssf/2013/01/coos_curry_crook_and_linn_coun.html), local radio station **KCMB** (http://pro.kcmb-fm.tritonflex.com/common/more.php?m=15&r=4&Item_Id=30501), local television station **KMTR** (<http://www.kmtr.com/news/local/story/Douglas-County-Sheriff-opposes-gun-control/6HYBxR6lsU2n2VRQPTGsfq.csp>) and gun rights organization **Oregon Firearms** (<http://oregonfirearms.org/2013/2013g...merletter.pdf>);

- Linn County Sheriff Tim Mueller
- Douglas County Sheriff John Hanlin
- Baker County Sheriff Mitchell Southwick
- Josephine County Sheriff Gil Gilbertson
- Crook County Sheriff Jim Hensley
- Coos County Sheriff Craig Zanni
- Curry County Sheriff John Bishop
- Grant County Sheriff Glenn Palmer
- Washington County Sheriff Pat Garrett

Colorado sheriffs (4) (as reported by local television station **KWGN** (<http://kwgn.com/2013/01/18/larimer-county-sheriff-threatens-not-to-enforce-new-gun-laws-9/>), the **El Paso County Sheriff's Official website** (<http://shr.elpasoco.com/>), the **Mesa County Sheriff's Official Facebook page** (<https://www.facebook.com/Mesacountys...40568432620211>) and the **Denver Post** (http://www.denverpost.com/news/ci_22406443/weld-county-sheriff-john-cooke-defiant-obama-gun-violence);

- El Paso County Colorado Sheriff Terry Maketa
- Larimer County Sheriff Justin Smith
- Mesa County Sheriff Stan Hilkey
- Weld County Sheriff John Cooke

Alabama sheriffs (3) (as reported by local news station **WHNT** (<http://whnt.com/2013/01/16/madison-sheriff-gun-control-laws-that-violate-constitution-wont-be-enforced/>), gun rights organization **Oath Keepers** (<http://oathkeepers.org/oath/2013/01...onal-sheriffs>) and media outlet **Dothanfirst** (http://dothanfirst.com/fulltext?nxd_id=252212);

- Madison County Sheriff Blake Doming
- Morgan County Sheriff Ana Franklin
- Houston County Sheriff Andy Hughes

California sheriffs (3) (according to **The Modesto Bee** (<http://www.modbee.com/2013/01/17/2537626/sheriffs-letter-decries-gun-law.html>) and local news stations **KRNV** (http://www.mynews4.com/news/story/El-Dorado-County-Sheriff-D-Agostini-Guns-Biden/7kFZd_mFvkv1nLTsJseWnA.cso) and **KFSN** (<http://abclocal.go.com/kfsn/story?section=news/local&id=8960103>);

- El Dorado County Sheriff John D'Agostini
- Fresno County Sheriff Margaret Mims
- Stanislaus County Sheriff Adam Christianson

Missouri sheriffs (3) (as reported on **BeforeItsNews** (<http://beforeitsnews.com/opinion-conservative/2013/01/an-open-letter-sent-to-obama-from-mo-sheriff-charles-heiss-about-2nd-amendment-rights-2562210.htm>) and news station **KOAM** (<http://www.koamtv.com/story/20606623...he-white-house>) and **KCTV** (<http://www.kctv5.com/story/20617279/missouri-county-sheriffs-voice-opposition-to-obama-gun-control-efforts>);

- Johnson County Sheriff Charles Heiss
- Lawrence County Sheriff Brad DeLay
- Livingston County Sheriff Steve Cox

Arizona sheriffs (2) (according to news outlets **TPM** (<http://liveswire.talkingpointsmemo.com/entry/oe-arpai-says-he-may-not-enforce-new>) and **Reason** (<http://reason.com/blog/2013/01/13/arizona-sheriff-wont-cooperate-with-anv>);

- Maricopa County Sheriff Joe Arpaio
- Yavapai County Sheriff Scott Mascher

Florida sheriffs (2) (according to local news station **WPTV** (http://www.wptv.com/dop/news/region_martin_county/stuart/martin-co-sheriff-says-his-department-cant-support-federal-gun-rules) and Sheriff McKiethen's personal **Facebook** (<http://www.facebook.com/oaqes/Frank...f/198347863515>);

- Martin County Sheriff Bill Snyder
- Bay County Florida Sheriff Frank McKiethen

Georgia sheriffs (2) (as reported by the Cherokee Tribune (http://cherokeetribune.com/pages/full_story/push7article-Gun+Control+%E2%80%9494+Sheriff+reaffirms+Second+Amendment+rights%20&id=21444621) and MinnPost Christian Science Monitor (<http://www.minnpost.com/christian-sc...ma-gun-control>)):

- Cherokee County Sheriff Roger Garrison
- Gilmer County Sheriff Stacy Nicholson

Idaho sheriffs (2) (according to news station KIFI (<http://www.localnews8.com/news/Eastern-Idaho-sheriff-Gun-control-is-out-of-control-/308662/18146172-/d8dvv8/-/index.html>) and newspaper Idaho Statesman (<http://www.idahostatesman.com/2013/0...f-says-he.html>)):

- Canyon County, Idaho Sheriff Kieran Donahue
- Madison County Sheriff Roy Klingler

Ohio sheriffs (2) (according to radio station KyPost (<http://www.kypost.com/dpp/news/local...11358574726760>)):

- Boone County Sheriff Michael A. Helmig
- Clermont County Sheriff A.J. Rodenberg

South Carolina sheriffs (2) (according to The Post and Courier (<http://www.postandcourier.com/article/20130118/PC16/1301192511165/sheriff-cannon-says-he-will-ignore-any-gun-control-measures-he-seems-unconstitutional>) and news station WYFF (<http://m.wyff4.com/news/President-s-gun-control-proposals-spark-reaction-in-Upstate/-/17443906/18160420/-/ymsswi/-/index.html?channelId=9324882#UPgLYs3chI8.facebook>)):

- Charleston County Sheriff AJ Cannon
- Spartanburg County Sheriff Chuck Wright

Johnson County, Kansas Sheriff Frank Denning, according to the Kansas City Star (<http://www.kansascity.com/2013/01/18...is-highly.html>):

Jackson County, Kentucky Sheriff Denny Peyman, as reported by NBC News (<http://usnews.nbcnews.com/news/2013/01/16/16547387-some-sheriffs-vow-not-to-enforce-obamas-gun-plan-anti-violence-groups-praise-measures?lite>):

Pine County, Minnesota Sheriff Robin Cole, according to NewsMax (<http://www.newsmax.com/Newsfront/Gun-Control-Pushback/2013/01/17/Id/471825#ixzz2IG0knw4>):

Humboldt County, Nevada Sheriff Ed Kilgore, as reported by local news station KRNV (<http://www.mvnews4.com/news/local/story/Gun-Laws-Ed-Kilgore-Humboldt-Joe-Biden-Letter/LvUbrVkyJUKsIxQLNhDs-a.csox?rss=3298>): and

Smith County, Texas Sheriff Larry Smith, as reported by local news station KLTV (<http://www.kltv.com/story/20608795/smith-county-sheriff-speaks-out-about-gun-control>):

UPDATE: On Jan. 19, 2013, Roosevelt county sheriff Darren Hooker (<http://www.examiner.com/article/40th-sheriff-refuses-to-enforce-assault-weapon-ban-obama-gun-control-laws?cid=rss>) of New Mexico declared that he will not enforce President Obama's proposed gun control laws or assault weapons ban, according to the Portales News-Tribune (<http://www.pntonline.com/news/sheriffsayshewonu2019tenforceproposedgunban.html>).

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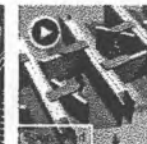
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Anti-gun crowd can't even get the basics right (Photos) (Politics)



Think government mass murder for 'gun control' can't happen here? It already has (Politics)



New security system could protect public from gun violence (Fox News)



Anthony Jay Blackwell, Long Island Civil Liberties Examiner

Anthony Jay Blackwell an experienced advocate, civil liberties defender, accomplished writer, educator and public speaker. You can follow Anthony for updates and comments @ajayblackwell. In 1993, he received his J.D. degree with honors from NYU School of Law and began practicing law. He received...



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Wyoming lawmakers propose bill to nullify new federal gun laws

January 10, 2013 | 11:03 am

453 Comments



Charlie Spiering
Commentary
Staff Writer

The Washington Examiner

@charlespiaring

Charlie on FB

Wyoming lawmakers have proposed a new bill that, if passed, would nullify any federal restrictions on guns, threatening to jail federal agents attempting to confiscate guns, ammunition magazines or ammunition.



The bill – HB0104 – states that "any federal law which attempts to ban a semi-automatic firearm or to limit the size of a magazine of a firearm or other limitation on firearms in this state shall be unenforceable in Wyoming."

The bill is sponsored by eight Wyoming state representatives and two state senators. If passed, the bill would declare any federal gun regulation created on or after January 1, 2013 to be unenforceable within the state.

In addition, the bill states would charge federal officials attempting to enforce a federal gun law within the state with a felony – "subject to imprisonment for not more less than one (1) year and one (1) day or more than five (5) years, a fine of not more than two thousand dollars (\$2,000.00) five thousand dollars (\$5,000.00), or both."

The bill also allows the Attorney General of Wyoming to defend a state citizen from any prosecution by the United States Government.

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One of the bill's co-sponsors, Wyoming State Senator Larry Hicks, told *The Washington Examiner* that this type of legislation sends a message to the federal government in Washington D.C.

"It says that your one size fits all solution doesn't comport to what a vast majority of the state believes," Hicks explained in an interview.

Citing the Tenth and the Second Amendments, Hicks asserted that the legislation was Constitutional, adding that he fully expected it to pass in the Wyoming state legislature. Hicks said that his Wyoming constituents were upset about the looming threat of gun control coming from Washington, particularly since Vice President Biden signaled yesterday that President Obama was willing to issue an executive order to tackle the gun issue.

"They are very, very upset that we're going to see some level of federal takeover of our weapons and abuse of our rights given to us by the Second Amendment," Hicks stated. "Also that the federal government will bypass our legislative officials and confiscate our weapons through executive order. This gives citizens of the Western United States a great deal of concern."

Rep. Kendall Kroeker, the lawmaker that spearheaded the bill, explained that he hoped that the federal government would recognize their constitutional rights based on the Tenth and Second Amendments.

"I think that its necessary when the federal government violates our rights in the Constitution we have to act," he explained.

The proposed legislation has received a overwhelmingly positive response from their constituents, according to the bill's sponsors, even from citizens of other states.

Kroeker said that since he introduced the bill he has received up to 50 emails from constituents thanking him for standing up for their rights.

"Most of the feedback that I have received is very encouraging," explained State Rep. Mark Baker, a fellow co-sponsor. "Many citizens from other states have contacted me stating that they are envious of our state's initiative."

Kroeker said that he currently owns several handguns, rifles, shotguns and an AR-15 semi-automatic rifle - the model targeted by gun control proponents.

"People in Washington tend to overreact," Kroeker said. "They try to place blame on gun owners punishing in the innocent to pay for the crimes of the guilty."

Hicks explained that the model of the bill was taken from a bill passed in the State of Montana in 2009 adding that it wasn't much different from what he'd seen other states do.

"I don't think this is controversial in Wyoming at all," he added. "I fully expect this bill to pass."

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PHIL BRYANT
GOVERNOR

January 16, 2013

Honorable Tate Reeves
Office of the Lt. Governor
New Capitol Building
Jackson, MS

Honorable Phillip Gunn
Office of the Speaker
New Capitol Building
Jackson, MS

Dear Lt. Governor Reeves and Speaker Gunn:

President Obama will likely issue an Executive Order today that infringes our constitutional right to keep and bear arms as never before in American history.

I am asking that you immediately pass legislation that would make any unconstitutional order by the President illegal to enforce in Mississippi by state or local law enforcement.

Several states have introduced similar measures and I believe will be successful in preventing this overreaching and anti-constitutional violation of our rights as American citizens.

I look forward to your immediate and positive response to this request, as I know you share my concern over our sacred rights as Americans.

With best regards, I remain,

Sincerely,

Phil Bryant
Governor

PB/dm

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From the desk of

SHERIFF TIM MUELLER
LINN COUNTY, OREGON

1115 SE Jackson St.
Albany, Oregon 97322
Phone: 541-967-3950
www.linnsheriff.org

January 14, 2013

Vice President Joe Biden
1600 Pennsylvania Avenue NW
Washington, DC 20501

Dear Mr. Vice President,

I am Sheriff Tim Mueller, elected twice by the citizens of Linn County Oregon who have entrusted me with a noble cause: to keep them and their families safe. My deputies and I take that responsibility very seriously and, like you, have sworn to support the Constitution of the United States. I take that oath equally as serious as protecting our citizens. I have worked for the people of Linn County for over 28 years as a member of the Linn County Sheriff's Office as well as serving three years active duty as a Military Police Officer in the US Army, where I also swore a similar oath.

In the wake of the recent criminal events, politicians are attempting to exploit the deaths of innocent victims by advocating for laws that would prevent honest, law abiding Americans from possessing certain firearms and ammunition magazines. We are Americans. We must not allow, nor shall we tolerate, the actions of criminals, no matter how heinous the crimes, to prompt politicians to enact laws that will infringe upon the liberties of responsible citizens who have broken no laws.

Any federal regulation enacted by Congress or by executive order of the President offending the constitutional rights of my citizens shall not be enforced by me or by my deputies, nor will I permit the enforcement of any unconstitutional regulations or orders by federal officers within the borders of Linn County Oregon.

In summary, it is the position of this Sheriff that I refuse to participate, or stand idly by, while my citizens are turned into criminals due to the unconstitutional actions of misguided politicians.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Mueller", written over a horizontal line.

Sheriff Tim Mueller
Linn County Oregon

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 22, 2013

SUBJECT: Federal Firearms Regulation (CSHB 69())
(Work Order No. 28-LS0290\U)

TO: Representative Mike Chenault
Attn: Tom Wright

FROM: Kathleen Strasbaugh
Legislative Counsel

Please find enclosed the draft committee substitute that you requested.

Findings

You requested that I add a paragraph to the findings in sec. 1, ch. 23, SLA 2010 that supported AS 44.99.500, when it was first adopted. The new paragraph was to be added to support AS 44.99.500 in this bill. Uncodified sections from prior years are somewhat difficult for a reader to find, and the finding you requested can stand alone. Thus, I have made the finding a new uncodified section for this bill.

I have also made a change in the language of the finding you requested from Texas House Bill 553, sec. 1(b)(6), so that its list of actions that may be declared unenforceable conforms to the list of actions in the bill. The listed items, "federal statute, regulation, rule, or order," cover all items that might have the force of law, which I understand is what the bill is intended to cover.

Please let me know if you would like these items drafted differently.

I did want to alert you to a problem with the new findings section of the bill, added in this draft. Legislative findings can be a useful way to explain the purpose of legislation, not only to a reader, but to a reviewing court. *See State v. Lewis*, 559 P.2d 630, 643 - 44 (Alaska 1977). However, the findings here are not statements of the factual basis or the legal authority for the legislation, but a legal conclusion that certain laws (not yet enacted) are unconstitutional under the United States Constitution. If a federal or state law is challenged, it will ultimately be a court that determines whether the laws at issue are unconstitutional. *Marbury v. Madison*, 5 U.S. 137, 177 - 78 (1803). Thus it is likely that a court, whether ruling on the constitutionality of the anticipated federal firearms legislation or this legislation, will make its own determination of the legal question rather than rely on the legislative findings. *Cf. State v. Enserch*, 787 P.2d 624 (Alaska 1989), in

Representative Mike Chenault
January 22, 2013
Page 2

which the Alaska Supreme Court noted legislative findings, but went on to find a law unconstitutional.

Retroactivity

Section 6 of the bill makes retroactive to January 1, 2013, the legislature's declaration in proposed AS 44.99.500(f) (sec. 5 of the bill) that certain actions are unconstitutional. Retroactivity is generally disfavored. *Watts v. Seward School Board*, 421 P.2d 586, 603 (Alaska 1966), *vacated on other grounds*, 391 U.S. 592, 88 S. Ct. 1753, 20 L.Ed.2d 842 (1968), *judgment reinstated*, 454 P.2d 732 (Alaska 1969). AS 01.10.090 requires that a statute that is intended to be retroactive must say so expressly, as proposed AS 44.99.500(f) does. However, retroactive laws that have the effect of imposing criminal penalties on conduct that precedes the enactment of the law are ex post facto laws that are forbidden by both the federal and state constitutions. U.S. Const. Art. I, sec. 9, cl. 3; Alaska Const. art. I, sec. 15. Thus proposed AS 44.99.500(g), also found in sec. 5 of the the committee substitute, if applied to conduct that occurred before the effective date of the act, would be unconstitutional. Accordingly, the provision of the bill imposing criminal penalties for the enforcement of federal law has been drafted so that it covers only post-enactment conduct.

Further, the recent formal actions of the President of the United States that are apparently of concern in this legislation, do not seem to create new law. *See attached* January 16, 2013, presidential memoranda published in the January 22, 2013, Federal Register. These memoranda provide direction to federal agencies, including direction to enforce existing law.¹ Thus it seems particularly important to limit any criminal penalties to post-enactment conduct, to avoid imposing penalties for ongoing enforcement of existing law that is not otherwise the subject of this legislation.

Please let me know if I can be of further assistance in this matter.

KJS:lnd
13-026.lnd

Enclosures

¹ The President's plan includes the topics in the memoranda, and suggestions for legislation that must be passed by Congress. The plan can be found here: http://www.whitehouse.gov/sites/default/files/docs/wh_now_is_the_time_full.pdf. For a summary of the proposals by category, here is a chart from an article in the *Washington Post*: <http://www.washingtonpost.com/wp-srv/special/politics/obama-gun-proposals/index.html>.

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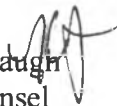
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MEMORANDUM

January 30, 2013

SUBJECT: Constitutionality of HB 69 (Work Order No. 28-LS0290\A)

TO: Representative Max Gruenberg

FROM: Kathleen Strasbaugh
Legislative Counsel 

You have requested an opinion regarding the constitutionality of HB 69, a law purporting to exempt certain Alaska firearms, ammunition, and accessories from federal regulation. If HB 69 is enacted and challenged in court, it is my opinion that it is likely to be found unconstitutional and unenforceable.

HB 69 amends Alaska's AS 44.99.500. The bill, (1) adds possession of firearms, ammunition, and accessories in Alaska to the types of activities exempted from federal regulation under AS 44.99.500, (2) adds criminal penalties for federal officials enforcing federal firearms laws related to Alaska owned or manufactured firearms, ammunition, and accessories, and (3) seeks to prevent the application of not-yet-enacted federal laws, regulations, and orders regarding restrictions on semiautomatic weapons and magazines or registration of semiautomatic weapons, magazines, or firearms accessories.

Constitutional Issues

Challenges to federal firearm regulation are generally undertaken for a determination of whether a regulation is an appropriate subject for federal legislation under the commerce clause. This issue was discussed in some detail in hearings conducted at the time the legislature was considering passage of AS 44.99.500. *See Minutes*, H. Jud. Comm. (HB 186, April 6, 2009); *Minutes*, S. Jud. Comm. (HB 186, February 1, 2010); *Minutes*, S. Jud. Comm. (HB 186, February 17, 2010).¹

I will summarize that discussion briefly here.

Article I, § 8 of the Constitution of the United States provides:

The Congress shall have power . . . [t]o regulate commerce with foreign nations, and among the several states and with the Indian tribes

¹ *See also*, documents linked at http://www.legis.state.ak.us/basis/get_minutes.asp?chamb=B&date1=010109&date2=011413&session=26&Root=HB186.

In *United States v. Lopez*, 514 U.S. 549 (1995), the United States Supreme Court found that a federal law prohibiting the possession of a firearm near a school was not an economic activity:

[t]he possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce. Respondent was a local student at a local school; there is no indication that he had recently moved in interstate commerce, and there is no requirement that his possession of the firearm have any concrete tie to interstate commerce.

514 U.S. at 561. Accordingly, the Court struck down 18 U.S.C. § 922(q), the "Gun Free School Zones Act of 1990," holding that the commerce clause did not provide support for the legislation.

However, *Lopez* would not likely save HB 69 if it were enacted. In *Gonzales v. Raich*, 545 U.S. 1 (2005), the Court held that the commerce clause authorized Congress to enact federal laws regulating and criminalizing activities involving controlled substances even if those activities were wholly intrastate and were pursuant to a state statutory scheme that authorized the activities. The Court found that unlike the activity at issue in *Lopez*, the activities regulated by the federal controlled substance laws are fundamentally economic. The controlled substance statute regulates the production, distribution, and consumption of commodities for which there is an established, interstate market. Prohibiting intrastate possession of an article of commerce is a commonly utilized means of regulating commerce in that product. Limiting the activity to marijuana possession and cultivation "in accordance with state law" could not serve to place those activities outside of Congress's reach. 545 U.S. at 25-26.

Once Congress properly enacts legislation within its authority,² the supremacy clause resolves any conflict between federal and state law in favor of federal law. *Id.* Article VI, Clause 2 of the United States Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Ninth Circuit Court of Appeals upheld federal regulation of firearms produced solely within one state in *United States v. Stewart*, 451 F.3d 1071 (9th Cir. 2006). Robert Stewart manufactured homemade machine guns and machine gun kits wholly within California and was convicted of possessing a machine gun in violation of federal law.

² Including under the commerce clause.

Representative Max Gruenberg

January 30, 2013

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Stewart appealed and the Ninth Circuit Court of Appeals, based upon *Lopez* and another case, and before *Raich* was decided, initially reversed his conviction finding that the simple possession of homemade machines did not have a substantial effect on interstate commerce. See *United States v. Stewart*, 348 F.3d 1132 (9th Cir. 2003). After the United States Supreme Court decided *Raich*, the Supreme Court vacated the decision of the Ninth Circuit and ordered the Ninth Circuit to reconsider its opinion in light of *Raich*. On remand, the Ninth Circuit found that Congress had the authority to regulate machine guns, including those wholly a product of intrastate commerce. The court reasoned that the guns could enter the interstate market and affect supply and demand.

HB 69 compounds the commerce clause problem, in that by adding possession and a potential federal ban on certain weapons and accessories to the exemptions in the law, items that may well be obtained in interstate commerce are affected. Further, attempting to prevent federal officers from enforcing federal law presents rather clear supremacy clause issues.

Please let me know if I can be of any further assistance in this matter.

KJS:Ind

13-042.lnd

32°F

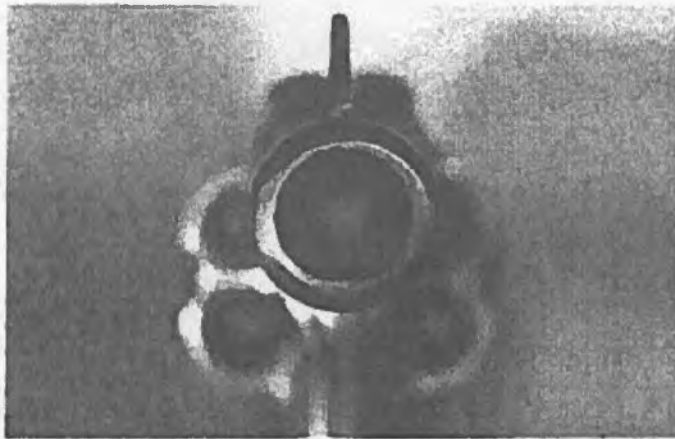
SECTIONS

Search

Alaska's contradiction? Lots of guns, few homicides

Craig Medred | February 6, 2013

Tweet 21



Alaska's homicide rate had been dropping and the number of homicides by gun is lower than many locales, including Luxembourg.

istockphoto

Can someone familiar with the country's latest gun-control debate explain Alaska to me?

This is a gun-crazy state. Guns are everywhere. About 58 percent of Alaskans own a gun, according to the Washington Post. Given that the U.S. Census says the average household size in the 49th state is 2.65 people, there is, on average, 1.53 guns per household.

Or to make this simple, there is basically a gun in every house.

Alaska homicide rate dropping

And yet, the Alaska homicide rate for 2011, the latest year for which figures are available, was 4 per 100,000 people. That's

significantly lower than the 6.4 per 100,000 people for New York City, where Mayor Michael Bloomberg likes to brag about how many guns the New York Police Department has taken away from the citizenry, and about a fifth of the homicide rate for Chicago (19.4 per 100,000), a city with stringent gun control that has been labeled the world's "Deadliest Global City."

But none of that really concerns the question that begs an answer.

If guns in and of themselves are evil, if more guns means people are more likely to kill other people, why does the death toll for Alaska "firearms homicides" stand at 2.6 per 100,000? Actually, the number is probably lower than that now. The data on specifically how people kill each other — with guns, knives, beatings -- dates to 2004, and the Alaska homicide rate has fallen about 25 percent since then. But suffice to say, fewer than half the people killed in homicides in Alaska are killed with a gun.

The state's gun-homicide rate is a low number. At 2.6, your odds of being shot and killed in Alaska are lower than your odds of being murdered in the European principality of Liechtenstein (2.8 per 100,000) and about the same as your odds for being murdered in Luxembourg (2.5 per 100,000). Neither country is known as a hotbed of violent crime.

Swiss mandate gun ownership

Then again, the chances of being killed with a firearm in Alaska -- or in Liechtenstein or Luxembourg, for that matter -- are a lot higher than the chances of being murdered in Switzerland. The death rate there is 0.7 per 100,000, and gun ownership is mandatory for men of military age, some of

whom are volatile young men. Some studies in this country have pinpointed men between the age of 21 and 30 as responsible for 40 to 50 percent of all homicides. The Swiss, however, arm them. And they don't only arm them, they give them assault rifles.

"Between the ages of 21 and 32 (all) men serve as front-line troops. They are given an M-57 assault rifle and 24 rounds of ammunition which they are required to keep at home," according to the BBC. The 24 rounds is a government requirement. People can buy more if they want.

(A personal note here. Young men casually handling automatic weapons in train stations and elsewhere in Switzerland always scared the beejesus out of me. It isn't so much that they are armed with automatic weapons, but that their handling sometimes seemed inattentive, even careless. Nonetheless, there do not appear to be a lot of accidental shootings in Switzerland, or at least people dying from accidental shootings.)

The Swiss clearly illustrate there are factors other than the simple availability of guns in play when it comes to violence, death and firearms. And so, it would seem, does Alaska. With all the guns around in the 49th state, why do slightly more people die due to knifings, beatings or other violence -- 3.05 per 100,000 -- than shootings -- 2.58 per 100,000?

Status symbol?

Or maybe the better question is this:

Why is death by firearm so much more prevalent in major U.S. cities, most of which have made it harder for people to legally obtain guns than in the Wild West of Alaska? Wouldn't you think that given gun control in those places, the ratio of knife, beating and other deaths would increase in proportion to gun deaths?

Or have gun bans, helped by pop culture, simply made it something of a status symbol to kill someone with a firearm in urban America?

Contact Craig Medred at [craig\(at\)alaskadispatch.com](mailto:craig(at)alaskadispatch.com)

RELATED:

NRA: 'Emotion' of Newtown shouldn't fuel gun control
(+video)

theguardian

DATA BLOG

Facts are sacred

Gun crime statistics by US state: latest data

How high is gun crime across the US - and which states have the worst figures? This is the latest data

- [Get the data](#)
- [Click here to explore the interactive map](#)



Gun crime map of the US. [Click here to explore it](#)

How bad is gun crime in the US? The latest data from the FBI's uniform crime reports provides a fascinating picture of the use of firearms in crimes across America.

Barack Obama is under pressure to tighten gun laws after following the disclosure by police that the Newtown gunman used a semi-automatic assault rifle equipped with "numerous" high-capacity magazines holding hundreds of bullets to carry out his

massacre of young children.

The US has the highest gun ownership rate in the world - there are 89 guns for every 100 Americans, compared to 6 in England and Wales.

And the murder figures themselves are astounding for Brits used to around 550 murders per year. In 2011 - the latest year for which detailed statistics are available - there were 12,664 murders in the US. Of those, **8,583** were caused by firearms.

The FBI crime statistics are based on reports to FBI bureau and local law enforcement. The figures are not complete - there are no stats for Florida or Alabama on firearm murders. But even so it provides a detailed picture of attacks by state.

In fact, gun crime, like all crime across the US (and the UK, for that matter), is going down - you can see how much in the graph above. And the vast majority involve firearms.

The figures show that California had the highest number of gun murders last year - 1,790, which is 68% of all murders that year and equivalent to 3.25 per 100,000 people in the state. Big as that figure is, it's still down by 3% on the previous year. Other key findings include:

- While gun crime is down in the vast majority of states, it is up in Indiana, Arkansas, North Carolina, Louisiana and several of the smaller states
- If you look at the firearms murder rate per 100,000 people, District of Columbia comes out top - with 12 firearms murders per 100,000 men, women and children in the state. There were 77 firearms murders in DC in 2010, down 22% on 2009
- DC is followed by Louisiana (10.16) and Mississippi (7.46)
- DC is also top for firearms robberies per 100,000 people - with 242.56
- If you look at aggravated assaults involving a firearm, Tennessee (137.58) and South Carolina (127.88) come above Arkansas (100.56)



Gun crime map of the

US. Click image to explore it

The full data is below. What can you do with it?

Data summary

*FBI
Uniform Crime
Reports*

Gun crimes by US states

Rates per 100,000 population. Click heading to sort table. [Download this data](#)

State	Total firearms murders, 2011	% change, 2010-11	Fire- arms murders as % of all murders	Fire- arms murders rate	Fire- arms robb- eries rate	Fire- arms assaults rate
United States	8,583	-3	68	2.75	39.25	43.77
→ Alaska	16	-16	55	2.24	18.19	80.47
Arizona	222	-4	65	3.53	50.24	57.36
Arkansas	110	18	72	4.39	45.45	100.56
California	1,220	-3	68	3.25	42.97	45.39
Colorado	73	12	50	1.51	25.74	45.72
Connecticut	94	-3	73	2.71	34.85	20.06
Delaware	28	-26	68	3.09	69.67	81.36
District of Columbia	77	-22	71	12.46	242.56	87.7
Georgia	370	-2	71	3.93	72.48	58.64
Hawaii	1	-86	14	0.07	n/a	n/a

RATES ARE PER 100,000 PEOPLE. SOURCE: [FBI UNIFORM CRIME REPORTS](#)
NO DATA FOR FLORIDA OR ALABAMA

State	Total firearms murders, 2011	% change, 2010-11	Fire- arms murders as % of all murders	Fire- arms murders rate	Fire- arms robb- eries rate	Fire- arms assaults rate
Idaho	17	42	53	1.14	3.41	23.43
Illinois	377	4	83	2.93	2.26	5.26
Indiana	183	29	64	3.29	53.14	29.91
Iowa	19	-10	43	0.71	7.31	21.95
Kansas	73	16	66	2.78	24.86	76.87
Kentucky	100	-14	67	2.36	39.77	25.14
Louisiana	402	15	83	10.16	63.48	99.51
Maine	12	9	48	0.9	5.8	4.52
Maryland	272	-7	68	4.7	79.71	41.18
Massachusetts	122	3	67	2.02	27.84	33.19
Michigan	450	9	73	5.06	55.95	86.41
Minnesota	43	-19	61	0.82	20.11	22.52
Mississippi	138	15	74	7.46	60.07	51.69
Missouri	276	-14	76	4.64	52.47	88.9
Montana	7	-42	39	0.76	3.78	29.03
Nebraska	42	31	65	2.5	25.44	33.84
Nevada	75	-11	58	3.07	69.77	53.3
New Hampshire	6	20	38	0.53	9.83	15.14
New Jersey	269	9	71	3.07	49.87	26.94
New Mexico	60	-10	50	2.98	34.96	87.26
New York	445	-14	57	4.12	23.28	20.06
North Carolina	335	17	69	3.87	48.72	67.44
North Dakota	6	50	50	0.93	4.79	4.79
Ohio	344	11	70	3.54	65.45	37.97
Oklahoma	131	18	64	3.64	42.81	58.07
Oregon	40	11	52	1.05	14.57	17.55
Pennsylvania	470	3	74	3.97	54.69	39.44
Rhode Island	5	-69	36	0.57	12.71	17.86
South Carolina	223	8	70	5.41	52.93	127.88
South Dakota	5	-38	33	0.68	4.91	20.6

RATES ARE PER 100,000 PEOPLE. SOURCE: FBI UNIFORM CRIME REPORTS
NO DATA FOR FLORIDA OR ALABAMA

State	Total firearms murders, 2011	% change, 2010-11	Fire- arms murders as % of all murders	Fire- arms murders rate	Fire- arms robb- eries rate	Fire- arms assaults rate
Tennessee	244	11	65	3.92	72.88	137.58
Texas	699	-13	64	2.91	50.21	58.28
Utah	26	18	51	0.97	10.98	21.32
Vermont	4	100	50	0.75	4.32	12.6
Virginia	208	-17	69	2.58	35.4	21.35
Washington	79	-15	49	1.25	20.72	28.44
West Virginia	43	59	58	2.87	16.08	52.04
Wisconsin	80	-18	59	1.47	43.86	27.4
Wyoming	11	120	73	2.01	3.65	20.44

RATES ARE PER 100,000 PEOPLE. SOURCE: [FBI UNIFORM CRIME REPORTS](#)
NO DATA FOR FLORIDA OR ALABAMA

Download the data

- [DATA: download the full spreadsheet](#)

SOURCE: [FBI UNIFORM CRIME REPORTS](#)

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Sec. 24.08.030. Appropriation bills. Bills for appropriation shall be confined to appropriations and shall include the amount involved and the purpose, method, manner, and other related conditions of payment. (§ 31 ch 157 SLA 1959)

Revisor's notes. — Formerly AS 24.30.030. Re-numbered in 1985.

Cross references. — For related constitutional provisions, see Alaska Const., art. II, § 13.

NOTES TO DECISIONS

Requirements for satisfying Confinement Clause. — To satisfy the Confinement Clause, an appropriations bill (1) must contain qualifying language of a minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent; (2) must not administer the program of

expenditures; (3) must not enact law or amend existing law; (4) must not extend beyond the life of the appropriation; and (5) must contain language that is germane, or appropriate, to an appropriations bill. *Alaska Legislative Council v. Knowles*, 21 P.3d 367 (Alaska 2001).

Sec. 24.08.035. Fiscal notes on bills. (a) Before a bill or resolution, except an appropriation bill, is reported from the committee of first referral, there shall be attached to the bill a fiscal note containing an estimate of the amount of the appropriation increase or decrease that would result from enactment of the bill for the current fiscal year and five succeeding fiscal years or, if the bill has no fiscal impact, a statement to that effect shall be attached. The fiscal note or statement shall be prepared in conformity with the requirements of this section by the department or departments affected and may be reviewed by the office of management and budget. The fiscal note or statement shall be delivered to the committee requesting it within three days of the request. If the bill is presented by the governor for introduction in accordance with AS 24.08.060(b) and the uniform rules of the legislature, the fiscal note or statement shall be attached to the bill before the bill is introduced. An amendment or a substitute bill proposed by a committee of referral that changes the fiscal impact of a bill shall be explained in a revised fiscal note or statement attached to the bill.

(b) In addition to the fiscal note required by this section, the sponsor of a bill or resolution may prepare a fiscal note in conformity with the requirements of this section and submit it to the committee of first referral or the finance committee. A committee may prepare an additional fiscal note in conformity with the requirements of this section.

(c) A fiscal note for a bill or resolution must contain the following information:

- (1) the fiscal impact on existing programs;
 - (2) the fiscal impact of new programs or activities;
 - (3) a line item detail of the fiscal impact;
 - (4) the source of funds expected to be utilized by general fund source, federal fund source, or other identified source;
 - (5) the number of new positions that may be required, identified as full-time, part-time, or temporary;
 - (6) an analysis of how the figures in the fiscal note were derived;
 - (7) additional information necessary to explain the fiscal note;
 - (8) a fiscal impact projection for the current fiscal year and for the succeeding five fiscal years; and
 - (9) formal information consisting of
 - (A) the bill or resolution number,
 - (B) the name of the prime sponsors,
 - (C) the date the fiscal note was prepared,
 - (D) the name of the committee requesting the fiscal note,
 - (E) the name and phone number of the person who prepared the fiscal note, and
 - (F) the budget request unit, program, or subprogram affected.
- (d) The original of a fiscal note shall be submitted to the Division of Legislative Finance and copies shall be sent to the prime sponsor, the committee requesting the fiscal note, and the office of management and budget.

(e) [Repealed, § 2 ch 64 SLA 1992.]

(f) In addition to the other requirements of this section, if a bill directs an agency in the executive branch of state government to adopt, amend, or repeal a regulation or will result in an agency's adopting, amending, or repealing a regulation, the department affected shall include in the fiscal note for the bill a specific time by which the agency shall adopt, amend, or repeal the regulation. If the agency is not able to meet the deadline set in the fiscal note, the agency shall

(1) set a new deadline; and

(2) report to the Administrative Regulation Review Committee the new deadline and the reasons for being unable to meet the deadline set in the fiscal note.

(g) In (f) of this section, "agency" includes the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, the Alaska Public Offices Commission, and the Alaska Oil and Gas Conservation Commission, but does not include other boards or commissions. (§ 1 ch 153 SLA 1968; am § 1 ch 20 SLA 1972; am § 1 ch 42 SLA 1976; am § 2 ch 60 SLA 1979; am §§ 3, 4 ch 63 SLA 1983; am §§ 1, 2 ch 64 SLA 1992; am § 4 ch 34 SLA 2007; am § 1 ch 42 SLA 2012)

Revisor's notes. — Formerly AS 24.30.035. Renumbered in 1985.

Effect of amendments. — The 2007 amendment, effective January 1, 2008, substituted "three days of the request" for "five days of the request or within two

days if the request is made after the 90th day of a regular session, or during a special session of the legislature" in the third sentence of subsection (a).

The 2012 amendment, effective July 1, 2012, added (f) and (g).

Sec. 24.08.036. Fiscal notes on bills affecting state retirement systems. Before a bill which would have an effect on the retirement systems of the state is reported to the rules committee, there shall be attached to the bill an analysis of the long-term and short-term costs to the state if the bill is adopted, as well as the impact of the bill on the actuarial soundness of the fund. The analysis is in addition to the fiscal note requirements of AS 24.08.035. (§ 2 ch 130 SLA 1977; am § 3 ch 60 SLA 1979; am § 81 ch 6 SLA 1984)

Revisor's notes. — Enacted as AS 24.30.037. Renumbered as AS 24.30.036 in 1977. Renumbered again in 1985.

Sec. 24.08.037. General obligation bond bills. A bill authorizing the issuance of general obligation bonds creating a state debt for capital improvements shall contain a statement of the scope of each project included in the proposed bond issue. The statement shall include a brief description of each capital improvement project, its location, and, in dollars, that portion of the total bond issue to be allocated to the project. (§ 2 ch 70 SLA 1973; am § 30 ch 197 SLA 1975)

Revisor's notes. — Formerly AS 24.30.037. Renumbered in 1985.

Cross references. — For provisions relating to the

responsibility of the director to provide statements of the scope of bond projects with sample ballots, see AS 15.15.040(b).

Sec. 24.08.040. Enacting clause. The enacting clause for each bill shall be: "Be it enacted by the Legislature of the State of Alaska." (§ 32 ch 157 SLA 1959)

Revisor's notes. — Formerly AS 24.30.040. Renumbered in 1985.

Cross references. — For related constitutional provisions, see Alaska Const., art. II, § 13.

Sec. 24.08.050. Prefiling of bills and resolutions. Any member of the legislature whose term extends into a forthcoming session or legislature, or a member-elect may file a bill or resolution or a proposal for a bill or resolution with the Legislative Affairs Agency at any time before January 1. The agency shall place a prefiled bill or resolution, which is approved by the sponsor, in proper form and deliver it to the chief clerk of the

2/8/13

For the record my name is Elaina Spraker, I am a longtime Alaskan resident and reside in Soldotna Alaska. I am the Clinic Director for the Kenai Peninsula Women on Target and Teens on Target programs, both programs sponsored by the friends of the NRA, SCI, Snowshoe Gun Club and the Hunter Heritage Foundation. Our mission is to "To create opportunities, encourage, educate and mentor women in responsible participation in firearm safety and skills. The vast majority of women who participate in our clinics are there to learn firearm safety for the purpose of protection.

I would like to thank our representatives who have introduced HB69 and SJR6, this legislation will help protect our 2nd amendment rights and egregious federal overreach.

Passing laws such as assault weapons ban and universal background checks is purely symbolic and moves in the direction to disarm the citizens of the United States. The tragedy at Newtown is being politically exploited by gun prohibitionists by using false statements to mischaracterize ordinary firearms and their standard accessories. Such firearms as the AR-15 and similar guns are used by law abiding gun owners for target and competitive shooting, protection and hunting. Our programs train both our adolescent and women participants with the AR-15, it is the preferred rifle to instruct with, low caliber no kick, tight groupings. Gun ban advocates have been pushing the "assault weapon" issue for a quarter century. Their political successes have always depended on public confusion. As many gun owners know firearms such as the AR-15 is not a full automatic assault rifle, full automatic assault rifles adhere to stringent regulated laws and background checks.

While the definitions of what to ban keep changing, a few things remain consistent: The definitions do *not* cover automatic firearms, such as assault rifles. The definitions do *not* ban guns based on how fast they fire, or how powerful they are. Instead, the definitions are based on the name of a gun, or on whether a firearm has certain superficial accessories (such as a bayonet lug, or a grip in the "wrong" place).

Misguided proposed legislation such as the Feinstein bill attempts to reassure gun owners by also including an appendage of guns which she is not banning. In 1994, she exempted 670 "recreational" firearms. In 2013, the exempted guns list grows to over 2,200. Notably, not a single handgun appears on either of Sen. Feinstein's lists. Handguns, the basis for a gun being exempted is because it is, supposedly, suitable for recreational uses. This ignores the Supreme Court case *District of Columbia v. Heller* that self-defense is the core of the Second Amendment. This idea of giving into a greater role of government regarding gun safety is not only absurd, but the lack of common sense on this issue is disturbing. This is not a left or right issue, libertarian or independent issue this is an American issue about the men and women of this country being able to defend themselves against tyranny and

having the power to preserve liberty and freedom. The second amendment was designed to protect the people not from the best of government, but from the worst of government.

In order to pass the 1994 federal ban, supporters had to accept two related provisions. First, the ban would sunset after 10 years. Second, the Department of Justice would have to commission a study of the ban's effectiveness. The study would then provide Congress with information to help decide whether to renew the ban.

The Justice Department of Attorney General Janet Reno chose the Urban Institute to conduct the required study. The study found the Feinstein ban to be a complete failure. There was no evidence that lives were saved, no evidence that criminals fired fewer shots during gun fights, no evidence of any good accomplished. Given the evidence from the researchers selected by the Clinton-Reno Department of Justice, it was not surprising that Congress chose not to renew the 1994 ban.

The 2004 final report concludes: "we cannot clearly credit the ban with any of the nation's recent drop in gun violence. . . . Should it be renewed, the ban's effects on gun violence are likely to be small at best and perhaps too small for reliable measurement." In addition, the FBI has reported that gun purchases in the past ten years have increased 60 percent while our murder rate has dropped 2 percent. It's time we face the fact that gun ownership lowers the rate of murder or they are not correlated at all.

Nationally, anti-gun advocates are calling for a ban on magazines holding more than 10 rounds. New York Governor Andrew Cuomo has gone even further, with a ban on anything holding more than seven cartridges. These bans are harmful to public safety especially in cases of self-defense. Consider the advantages a criminal has over his intended victims when they will illegally obtain magazines of their choice while law abiding citizens will be reduced to protecting themselves with 7 rounds. Every law-abiding citizen has a moral right to own the best tools of self-defense.

Many Americans believe that gun registration can be a tool for gun confiscation. That is why Congress has enacted three separate laws in 1941, 1986, and 1993 prohibiting federal gun registration. Congress first acted in 1941 because Congress saw how Hitler and Stalin had been using gun registration for confiscation. Even if we look only at registration laws enacted by democratic nations, in most countries gun registration lists have eventually been used for the confiscation of many firearms. Universal background checks will accomplish this goal. The evidence is overwhelming that Americans will not comply with gun confiscation programs; a recent Rasmussen poll showed that 65 percent of American gun owners would not obey government orders to surrender their guns.

Nor will Americans obey laws which retroactively require them to register their guns. Case in point, during the 1994 the assault weapons ban, several states and cities passed prohibitions allowing grandfathered owners to keep the guns legally by registering the guns. The non-compliance rates for retroactive registration were always at least 90%, and frequently much higher than that.

In conclusion overwhelming statistics show that gun control legislation will not prevent mass murders, lower crime rates and make Americans safer. What ineffectual gun control legislation will do, is hurt law abiding gun owners, put more illegal firearms in the hands of criminals, erode away at constitutional freedoms and put more people at risk who are defending themselves.

We applaud our representatives for putting forth a bill to prevent feel good do nothing legislation by gun control advocates.

Thank-you,
Elaina Spraker
Soldotna, AK

By: Mayor Verne E. Rupright
Adopted: January 28, 2013

Vote: Buswell, Harris, Sullivan-Leonard, Lovell, Wall in favor and Woodruff opposed.

**CITY OF WASILLA
RESOLUTION SERIAL NO. 13-05**

A Resolution of the Wasilla City Council supporting the adoption of the State of Alaska House Bill No. 69, which is an Act exempting certain firearms and firearm accessories in this state from federal regulation; providing criminal penalties for federal officials who enforce or attempt to enforce a federal law, regulation, rule, or order regulating certain firearms and firearm accessories in this state.

WHEREAS, the right of the people to keep and bear arms is granted under the Second Amendment in the United States Constitution and the Constitution of the State of Alaska; and

WHEREAS, the right of the people keep and bear arms for defense of life, liberty, and property is regarded as an inalienable right; and

WHEREAS, the enjoyment of all safe forms of firearms for recreation, hunting and shooting is greatly valued by the people of the City of Wasilla; and

WHEREAS, states are not subject to federal law or federal regulation, including registration, of intrastate commerce of firearms, firearm accessories, and ammunition; and

WHEREAS, several Alaska State Representatives have drafted House Bill No. 69 to exempt the State of Alaska from these federal regulations and protect the residents of Alaska's constitutional rights to keep and bear arms; and

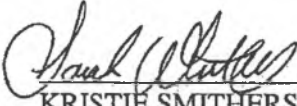
WHEREAS, House Bill No. 69 states that any federal statute, regulation, rule, or order enacted or effective on or after the effective date of this Act is unenforceable in this state if the federal statute, regulation, rule, or order attempts to ban or restrict ownership of certain gun types or require registration of any firearms, firearm accessories, and/or ammunition.

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla City Council supports the adoption of the State of Alaska House Bill No. 69.

ADOPTED by the Wasilla City Council on January 28, 2013.


VERNE E. RUPRIGHT, Mayor

ATTEST:


KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

CITY OF
WASILLA
 • ALASKA •

CITY COUNCIL LEGISLATION STAFF REPORT

Resolution Serial No. 13-05: Supporting the adoption of the State of Alaska House Bill No. 69, which is an Act exempting certain firearms and firearm accessories in this state from federal regulation; providing criminal penalties for federal officials who enforce or attempt to enforce a federal law, regulation, rule, or order regulating certain firearms and firearm accessories in this state.

Originator: Mayor Verne E. Rupright
 Date: 1/18/2013

Agenda of: 1/28/2013

Route to:	Department Head	Signature	Date
	Chief of Police		
	Public Works Director		
	Recreation & Cultural Services Director		
X	Finance Director	<i>[Signature]</i>	1-21-13
X	Deputy Administrator	<i>[Signature]</i>	1-18-13
X	City Clerk	<i>[Signature]</i>	1/18/13

Reviewed by Mayor Verne E. Rupright: *[Signature]*

Fiscal Impact: yes or no Funds Available: yes or no

Account name/number:

Attachments: State of Alaska House Bill No. 69 (3 pages).

Summary Statement: This resolution is proposed to support the adoption of House Bill No. 69, which protects the rights of Alaska residents to keep and bear arms as granted by the United States Constitution and the Constitution of the State of Alaska. This bill was recently introduced by several Alaska State Representatives and would exempt certain firearms and firearm accessories in this state from federal regulation and provide criminal penalties for federal officials who enforce or attempt to enforce a federal law, regulation, rule, or order regulating certain firearms and firearm accessories in this state.

Recommended Action: Adopt Resolution Serial No. 13-05.

United States of America

United States Code Annotated. Title 16. Conservation. Chapter 5B. Wildlife Restoration

[Statute Details](#)

[Printable Version](#)

Citation: 16 USC 669 - 669k

Last Checked by Web Center Staff: 10/2011

Summary: The Pittman-Robertson Wildlife Restoration Act authorizes the Secretary of the Interior to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects. However, per statute, no money apportioned under this chapter to any state shall be expended until the state in question assents to the provisions of this chapter and has passed laws for the conservation of wildlife, which includes a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said state's fish and game department. The Act also provides for grants for hunter education programs and a mechanism for a multi-state conservation grant program.

Statute in Full: