

HOUSE BILL No. 5232

August 11, 2009, Introduced by Reps. Pavlov, Opsommer, Rick Jones, Knollenberg, Lund, DeShazor, Lori, Kurtz, Calley, Agema, Proos, Daley, Stamas, Hansen, Moss, McMillin, Haveman, Meltzer, Mayes, Moore, Neumann, Espinoza, Spade, McDowell, Bennett, LeBlanc, Hammel, Terry Brown, Paul Scott, Hildenbrand, Rogers, Genetski, Amash, Haines, Walsh, Booher, Clemente, Tyler, Sheltroun, Schuitmaker, Pearce, Kowall, Wayne Schmidt, Crawford and Marleau and referred to the Committee on Judiciary.

A bill to create the Michigan firearms freedom act; to make certain findings regarding intrastate commerce; to prohibit federal regulation of firearms, firearms accessories, and ammunition involved purely in intrastate commerce in this state; to provide for certain exceptions to federal regulation; and to establish certain manufacturing requirements.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan firearms freedom act".

3 Sec. 2. The legislature finds all of the following:

4 (a) Amendment X of the constitution of the United States
5 guarantees to the states and their people all powers not granted to
6 the federal government elsewhere in the constitution and reserves
7 to the state and people of Michigan certain powers as they were

1 understood at the time that Michigan was admitted to statehood on
2 January 26, 1837. The guaranty of those powers is a matter of
3 contract between the state and people of Michigan and the United
4 States as of the time that the compact with the United States was
5 agreed upon and adopted by Michigan and the United States.

6 (b) Amendment IX of the constitution of the United States
7 guarantees to the people rights not granted in the constitution and
8 reserves to the people of Michigan certain rights, as they were
9 understood at the time that Michigan was admitted to statehood. The
10 guaranty of those rights is a matter of contract between the state
11 and people of Michigan and the United States as of the time that
12 the compact with the United States was agreed upon and adopted by
13 Michigan and the United States.

14 (c) The regulation of intrastate commerce is vested in the
15 states under amendments IX and X of the constitution of the United
16 States, particularly if not expressly preempted by federal law.
17 Congress has not expressly preempted state regulation of intrastate
18 commerce pertaining to the manufacture on an intrastate basis of
19 firearms, firearms accessories, and ammunition.

20 (d) Amendment II of the constitution of the United States
21 reserves to the people the right to keep and bear arms as that
22 right was understood at the time that Michigan was admitted to
23 statehood, and the guaranty of the right is a matter of contract
24 between the state and people of Michigan and the United States as
25 of the time that the compact with the United States was agreed upon
26 and adopted by Michigan and the United States.

27 (e) Section 6 of article I of the state constitution of 1963

1 clearly secures to Michigan citizens, and prohibits government
2 interference with, the right of individual Michigan citizens to
3 keep and bear arms. This constitutional protection is unchanged
4 from the original Michigan constitution, which was approved by
5 congress and the people of Michigan, and the right exists, as it
6 was understood at the time that the compact with the United States
7 was agreed upon and adopted by Michigan and the United States.

8 Sec. 3. A personal firearm, a firearm accessory, or ammunition
9 that is manufactured commercially or privately in Michigan and that
10 remains within the borders of Michigan is not subject to federal
11 law or federal regulation, including registration, under the
12 authority of congress to regulate interstate commerce. It is
13 declared by the legislature that those items have not traveled in
14 interstate commerce. This section applies to a firearm, a firearm
15 accessory, or ammunition that is manufactured in Michigan from
16 basic materials and that can be manufactured without the inclusion
17 of any significant parts imported from another state. Generic and
18 insignificant parts that have other manufacturing or consumer
19 product applications are not firearms, firearms accessories, or
20 ammunition, and their importation into Michigan and incorporation
21 into a firearm, a firearm accessory, or ammunition manufactured in
22 Michigan does not subject the firearm, firearm accessory, or
23 ammunition to federal regulation. It is declared by the legislature
24 that basic materials, such as unmachined steel and unshaped wood,
25 are not firearms, firearms accessories, or ammunition and are not
26 subject to congressional authority to regulate firearms, firearms
27 accessories, and ammunition under interstate commerce as if they

1 were actually firearms, firearms accessories, or ammunition. The
2 authority of congress to regulate interstate commerce in basic
3 materials does not include authority to regulate firearms, firearms
4 accessories, and ammunition made in Michigan from those materials.
5 Firearms accessories that are imported into Michigan from another
6 state and that are subject to federal regulation as being in
7 interstate commerce do not subject a firearm to federal regulation
8 under interstate commerce because they are attached to or used in
9 conjunction with a firearm in Michigan.

10 Sec. 4. Section 3 does not apply to any of the following:

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

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

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

18 (d) A firearm that discharges 2 or more projectiles with 1
19 activation of the trigger or other firing device.

20 Sec. 5. A firearm manufactured or sold in Michigan under this
21 act shall have the words "Made in Michigan" clearly stamped on a
22 central metallic part, such as the receiver or frame.

23 Sec. 6. This act applies to firearms, firearms accessories,
24 and ammunition that are manufactured and retained in Michigan on or
25 after October 1, 2010.

26 Sec. 7. As used in this act:

27 (a) "Borders of Michigan" means the boundaries of Michigan

1 established for purposes of statehood.

2 (b) "Firearms accessories" means items that are used in
3 conjunction with or mounted upon a firearm but are not essential to
4 the basic function of a firearm, including, but not limited to,
5 telescopic or laser sights, magazines, flash or sound suppressors,
6 folding or aftermarket stocks and grips, speedloaders, ammunition
7 carriers, and lights for target illumination.

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

10 (d) "Manufactured" means that a firearm, a firearm accessory,
11 or ammunition has been created from basic materials for functional
12 usefulness, including, but not limited to, forging, casting,
13 machining, or other processes for working materials.