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## BILL ANALYSIS

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Senate Bill 63 (as introduced 1-16-13)  
Sponsor: Senator Phil Pavlov  
Committee: Judiciary

Date Completed: 1-22-13

**CONTENT**

The bill would create the "Michigan Firearms Freedom Act" to do the following:

- Specify that a personal firearm, a firearm accessory, or ammunition manufactured in Michigan, and remaining within the borders of the State, would not be subject to Federal law or regulation under Congress's authority to regulate interstate commerce.
- Specify that generic and insignificant parts and firearms accessories imported from another state would not subject a firearm to Federal interstate commerce regulation.
- Describe firearms and ammunition to which the proposed Act would not apply.
- State several legislative findings.

Exemption from Federal Regulation

Under Section 3 of the proposed Act, a personal firearm, a firearm accessory, or ammunition that was manufactured commercially or privately in Michigan, and that remained within the borders of Michigan, would not be subject to Federal law or Federal regulation, including registration, under the authority of Congress to regulate interstate commerce. The bill states, "It is declared by the legislature that those items have not traveled in interstate commerce."

Section 3 would apply to a firearm, a firearm accessory, or ammunition that was manufactured in Michigan from basic materials and that could be manufactured without the inclusion of any significant parts imported from another state. Generic and insignificant parts that had other manufacturing or consumer product applications would not be firearms, firearms accessories, or ammunition, and their importation into Michigan and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Michigan would not subject it to Federal regulation. ("Generic and insignificant parts" would include springs, screws, nuts, and pins.) The bill states, "It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were actually firearms, firearms accessories, or ammunition. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories, and ammunition made in Michigan from those materials."

Firearms accessories that were imported into Michigan from another state and that were subject to Federal regulation as being in interstate commerce would not subject a firearm to Federal regulation under interstate commerce because they were attached to or used in conjunction with a firearm in Michigan.

Section 3 would not apply to any of the following:

- A firearm that could not be carried and used by one person.
- A firearm that had a bore diameter greater than 1.5 inches and that used smokeless powder, not black powder, as a propellant.
- Ammunition with a projectile that exploded using an explosion of chemical energy after the projectile left the firearm.
- A firearm that discharged two or more projectiles with one activation of the trigger or other firing device.

A firearm manufactured or sold in Michigan under the proposed Act would have to have the words "Made in Michigan" clearly stamped on a central metallic part, such as the receiver or frame.

The Act would apply to firearms, firearms accessories, and ammunition that were manufactured and retained in Michigan on or after October 1, 2013.

"Firearms accessories" would mean items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.

"Manufactured" would mean that a firearm, firearm accessory, or ammunition has been created from basic materials for functional usefulness, including forging, casting, machining, or other processes for working materials.

#### Legislative Findings

The bill states the following legislative findings.

"Amendment X of the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Michigan certain powers as they were understood at the time that Michigan was admitted to statehood on January 26, 1837. The guaranty of those powers is a matter of contract between the state and people of Michigan and the United States as of the time that the compact with the United States was agreed upon and adopted by Michigan and the United States."

"Amendment IX of the constitution of the United States guarantees to the people rights not granted in the constitution and reserves to the people of Michigan certain rights, as they were understood at the time that Michigan was admitted to statehood. The guaranty of those rights is a matter of contract between the state and people of Michigan and the United States as of the time that the compact with the United States was agreed upon and adopted by Michigan and the United States."

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

"Amendment II of 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 Michigan was admitted to statehood, and the guaranty of the right is a matter of contract between the state and people of Michigan and the United States as of the time that the compact with the United States was agreed upon and adopted by Michigan and the United States."

"Section 6 of article I of the state constitution of 1963 clearly secures to Michigan citizens, and prohibits government interference with, the right of individual Michigan citizens to keep and bear arms. This constitutional protection is unchanged from the original Michigan constitution, which was approved by congress and the people of Michigan, and the right exists, as it was understood at the time that the compact with the United States was agreed upon and adopted by Michigan and the United States."

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on local or State law enforcement agencies under State and Federal firearms laws as they currently stand. In the future, should the Federal government establish new or additional firearms regulations that differed from established State regulations, the bill's exemption from Federal regulations for firearms manufactured and remaining in Michigan could result in less required policing of firearms laws by State and local law enforcement agencies than otherwise would have been required.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.