

1 **UTAH STATE-MADE FIREARMS PROTECTION ACT**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill addresses the manufacture of firearms within the state for in-state use.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ addresses the legal status of a firearm manufactured in the state for use within the
- 11 state;
- 12 ▶ defines terms;
- 13 ▶ provides that a firearm or one of various firearm-related items manufactured in the
- 14 state for in-state use is not subject to federal firearms laws and regulations;
- 15 ▶ exempts from in-state manufacturing some firearms and ammunition; and
- 16 ▶ requires certain markings on a firearm manufactured in the state for use within the
- 17 state.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides an immediate effective date.

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **53-5b-101**, Utah Code Annotated 1953

25 **53-5b-102**, Utah Code Annotated 1953

26 **53-5b-103**, Utah Code Annotated 1953

27 **53-5b-201**, Utah Code Annotated 1953

28 **53-5b-202**, Utah Code Annotated 1953

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **53-5b-101** is enacted to read:

32 **CHAPTER 5b. UTAH STATE-MADE FIREARMS PROTECTION ACT**

33 **Part 1. General Provisions**

34 **53-5b-101. Title.**

35 This chapter is known as the "Utah State-Made Firearms Protection Act."

36 Section 2. Section **53-5b-102** is enacted to read:

37 **53-5b-102. Legal considerations.**

38 In reviewing any matter covered by this chapter, a court shall consider the following:

39 (1) The tenth amendment to the United States Constitution guarantees to the state and
40 its people all powers not granted to the federal government elsewhere in the Constitution and
41 reserves to the state and people of Utah certain powers as they were understood at the time that
42 Utah was admitted to statehood.

43 (2) The guarantee of powers to the state and its people under the tenth amendment is a
44 matter of contract between the state and people of Utah and the United States as of the time of
45 statehood.

46 (3) The ninth amendment to the United States Constitution guarantees to the people
47 rights not granted in the Constitution and reserves to the people of Utah certain rights as they
48 were understood at the time that Utah was admitted to statehood.

49 (4) The guarantee of rights to the people under the ninth amendment is a matter of
50 contract between the state and people of Utah and the United States as of the time of statehood.

51 (5) The regulation of intrastate commerce is vested in the state under the ninth and
52 tenth amendments to the United States Constitution.

53 (6) The second amendment to the United States Constitution reserves to the people the
54 right to keep and bear arms as that right was understood at the time that Utah was admitted to
55 statehood, and the guarantee of the right is a matter of contract between the state and people of
56 Utah and the United States as of the time of statehood.

57 (7) The Utah Constitution clearly secures to Utah citizens, and prohibits government
58 interference with, the right of individual Utah citizens to keep and bear arms.

59 (8) A personal firearm, a firearm action or receiver, a firearm accessory, or ammunition
60 that is manufactured commercially or privately in the state to be used or sold within the state is
61 not subject to federal law or federal regulation, including registration, under the authority of
62 congress to regulate interstate commerce.

63 (9) The Legislature declares that a firearm, firearm action or receiver, a firearm
64 accessory, and ammunition described in Subsection (8) does not travel in interstate commerce.

65 (10) The importation into the state of generic and insignificant parts and those parts'
66 incorporation into a firearm, a firearm action or receiver, firearm accessory, or ammunition
67 manufactured in the state does not subject the firearm, firearm accessory, firearm action or
68 receiver, or ammunition to federal law or regulation.

69 (11) Basic materials, including unmachined steel and unshaped wood, are not firearms,
70 firearm actions or receivers, firearms accessories, or ammunition.

71 (12) Trade in basic materials is not subject to congressional authority to regulate
72 firearms, firearm actions or receivers, firearms accessories, and ammunition as if the basic
73 materials were actually firearms, firearms actions or receivers, firearms accessories, or
74 ammunition.

75 (13) Congress's authority to regulate interstate commerce in basic materials does not
76 include authority to regulate firearms, firearm actions or receivers, firearms accessories, and
77 ammunition made in the state from basic materials.

78 (14) The attachment or use of firearms accessories in conjunction with a firearm
79 manufactured in the state does not subject the firearm to federal regulation under congress's
80 power to regulate interstate commerce, without regard to whether the firearms accessories are
81 themselves subject to federal regulation.

82 Section 3. Section **53-5b-103** is enacted to read:

83 **53-5b-103. Definitions.**

84 As used in this chapter:

85 (1) "Firearm" means a device from which is expelled a projectile by action of an
86 explosive.

87 (2) "Firearms accessory" means an item that is used in conjunction with or mounted
88 upon a firearm, firearm action, or firearm receiver but is not essential to the basic function of a
89 firearm, including:

90 (a) a telescopic or laser sight;

91 (b) a magazine;

92 (c) a flash or sound suppressor;

93 (d) a folding or aftermarket stock or grip;

- 94 (e) a speed-loader;
 95 (f) and ammunition carrier; and
 96 (g) a light for target illumination.
 97 (3) "Generic and insignificant parts:"
 98 (a) means parts that have other manufacturing or consumer product applications; and
 99 (b) includes:
 100 (i) springs;
 101 (ii) screws;
 102 (iii) nuts; and
 103 (iv) pins.

104 (4) "Manufactured" means creating a firearm, a firearm action, or receiver, a firearm
 105 accessory, or ammunition from basic materials for functional usefulness, including:

- 106 (a) forging;
 107 (b) casting;
 108 (c) machining; and
 109 (d) another process for working materials.

110 Section 4. Section **53-5b-201** is enacted to read:

111 **Part 2. Manufacturing Firearms**

112 **53-5b-201. Intrastate firearm manufacturing.**

113 (1) This chapter applies to a firearm, a firearm action or receiver, a firearm accessory,
 114 or ammunition that is manufactured in the state to remain in the state from basic materials that
 115 can be manufactured without the inclusion of any significant parts imported into the state.

116 (2) This chapter does not apply to:

- 117 (a) a firearm that cannot be carried and used by one person;
 118 (b) a firearm that has a bore diameter greater than one and one half inches and that uses
 119 smokeless powder, not black powder, as a propellant;
 120 (c) a firearm that discharges two or more projectiles with one activation of the trigger
 121 or other firing device, other than a shotgun; or
 122 (d) ammunition with a projectile that explodes using an explosion of chemical energy
 123 after the projectile leaves the firearm.

124 Section 5. Section **53-5b-202** is enacted to read:

125 **53-5b-202. Required markings.**

126 A firearm, firearm action or firearm receiver manufactured or sold in Utah under this
127 chapter must have the words "Made in Utah" or "Made in UT" clearly stamped on a central
128 metallic part, such as the receiver or frame.

129 Section 6. **Effective date.**

130 If approved by two-thirds of all the members elected to each house, this bill takes effect
131 upon approval by the governor, or the day following the constitutional time limit of Utah
132 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
133 the date of veto override.