

1 **UTAH STATE-MADE FIREARMS PROTECTION**

2 **ACT**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: Stephen E. Sandstrom

7

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides an immediate effective date.

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **53-5b-101**, Utah Code Annotated 1953

28 **53-5b-102**, Utah Code Annotated 1953

29 **53-5b-103**, Utah Code Annotated 1953

30 **53-5b-201**, Utah Code Annotated 1953

31 **53-5b-202**, Utah Code Annotated 1953



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

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

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

36 **Part 1. General Provisions**

37 **53-5b-101. Title.**

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

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

40 **53-5b-102. Legal considerations.**

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

42 (1) The Tenth Amendment to the United States Constitution guarantees to the state
43 and its people all powers not granted to the federal government elsewhere in the Constitution
44 and reserves to the state and people of Utah certain powers as they were understood at the time
45 that Utah was admitted to statehood.

46 (2) The guarantee of powers to the state and its people under the Tenth Amendment is
47 a matter of contract between the state and people of Utah and the United States as of the time
48 of statehood.

49 (3) The Ninth Amendment to the United States Constitution guarantees to the people
50 rights not granted in the Constitution and reserves to the people of Utah certain rights as they
51 were understood at the time that Utah was admitted to statehood.

52 (4) The guarantee of rights to the people under the Ninth Amendment is a matter of
53 contract between the state and people of Utah and the United States as of the time of
54 statehood.

55 (5) The regulation of intrastate commerce is vested in the state under the Ninth and
56 Tenth Amendments to the United States Constitution.

57 (6) The Second Amendment to the United States Constitution reserves to the people

58 the right to keep and bear arms as that right was understood at the time that Utah was admitted
59 to statehood, and the guarantee of the right is a matter of contract between the state and people
60 of Utah and the United States as of the time of statehood.

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

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

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

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

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

75 (12) Trade in basic materials is not subject to congressional authority to regulate
76 firearms, firearm actions or receivers, firearms accessories, and ammunition as if the basic
77 materials were actually firearms, firearm actions or receivers, firearms accessories, or
78 ammunition.

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

82 (14) The attachment or use of firearms accessories in conjunction with a firearm
83 manufactured in the state does not subject the firearm to federal regulation under Congress's
84 power to regulate interstate commerce, without regard to whether the firearms accessories are
85 themselves subject to federal regulation.

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

87 **53-5b-103. Definitions.**

88 As used in this chapter:

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

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

94 (a) a telescopic or laser sight;

95 (b) a magazine;

96 (c) a flash or sound suppressor;

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

98 (e) a speed-loader;

99 (f) an ammunition carrier; and

100 (g) a light for target illumination.

101 (3) "Generic and insignificant parts:"

102 (a) means parts that have other manufacturing or consumer product applications; and

103 (b) includes:

104 (i) springs;

105 (ii) screws;

106 (iii) nuts; and

107 (iv) pins.

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

110 (a) forging;

111 (b) casting;

112 (c) machining; and

113 (d) another process for working materials.

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

115 **Part 2. Manufacturing Firearms**

116 **53-5b-201. Intrastate firearm manufacturing.**

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

120 (2) This chapter does not apply to:

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

122 (b) a firearm that has a bore diameter greater than 1-1/2 inches and that uses
123 smokeless powder, not black powder, as a propellant;

124 (c) a firearm that discharges two or more projectiles with one activation of the trigger
125 or other firing device, other than a shotgun; or

126 (d) ammunition with a projectile that explodes using an explosion of chemical energy
127 after the projectile leaves the firearm.

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

129 **53-5b-202. Required markings.**

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

133 Section 6. **Effective date.**

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