

SENATE BILL NO. 146

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DYSON

Introduced: 3/11/09

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act declaring that certain firearms and accessories are exempt from federal**
2 **regulation."**

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

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

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

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

14 (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 understood 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 understood 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) This section does not apply to

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

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

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

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

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

26 (e) The attorney general shall defend a citizen of this state who is prosecuted
27 by the government of the United States under the congressional power to regulate
28 interstate commerce for violation of a federal law concerning the manufacture, sale,
29 transfer, or possession of a firearm, a firearm accessory, or ammunition manufactured
30 and retained within this state. On receipt of written notification by a citizen of this
31 state of intent to manufacture a firearm, a firearm accessory, or ammunition to which

1 this section applies, the attorney general shall seek a declaratory judgment from the
2 United States District Court for the District of Alaska that this section is consistent
3 with the Constitution of the United States.

4 (f) In this section,

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

10 (2) "generic and insignificant parts" includes springs, screws, nuts, and
11 pins;

12 (3) "manufactured" means a firearm, a firearm accessory, or
13 ammunition that has been created from basic materials for functional usefulness,
14 including forging, casting, machining, or other processes for working materials.

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

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