

ENROLLED ACT NO. 51, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to the Wyoming Firearms Freedom Act; establishing a Wyoming Firearms Freedom Act; providing that specified firearms that are manufactured, sold, purchased, possessed and used exclusively within Wyoming shall be exempt from federal regulation, including registration requirements; providing exceptions; creating offenses; providing penalties; authorizing the attorney general to defend specified actions; providing legislative findings and declarations of authority; establishing conditions for the possession and purchase of specified firearms; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 6-8-402 through 6-8-406 are created to read:

6-8-402. Short title; applicability.

(a) This act shall be known and may be cited as the "Wyoming Firearms Freedom Act".

(b) This act shall apply to firearms, firearm accessories and ammunition that are manufactured in Wyoming.

6-8-403. Definitions.

(a) As used in this act:

(i) "Ammunition" means any projectile expelled by action of an explosive from a firearm but shall not include any projectile designed to pierce armor;

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(ii) "Borders of Wyoming" means the boundaries of Wyoming as described in Section 2 of the Act of Admission of the state of Wyoming, 26 United States Statutes at Large, 222, chapter 664;

(iii) "Firearm" means any weapon which will or is designed to expel a projectile by the action of an explosive. "Firearm" shall not include any fully automatic weapon or any weapon designed to fire a rocket propelled grenade or any explosive projectile;

(iv) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including, but not limited to, telescopic or laser sights, magazines, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, optics for target identification and lights for target illumination;

(v) "Generic and insignificant parts" includes, but is not limited to, springs, screws, nuts and pins;

(vi) "Manufactured" means that a firearm, a firearm accessory or ammunition has been created from basic materials for functional usefulness, including, but not limited to forging, casting, machining, molding or other processes for working materials;

(vii) "This act" means W.S. 6-8-401 through 6-8-406.

6-8-404. Regulation by state of firearms, firearms accessories and ammunition manufactured in Wyoming; exceptions.

(a) A personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders

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of Wyoming is not subject to federal law, federal taxation or federal regulation, including registration, under the authority of the United States congress to regulate interstate commerce. It is declared by the Wyoming legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured in Wyoming from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state or foreign country. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories or ammunition, and their importation into Wyoming and incorporation into a firearm, firearm accessory or ammunition manufactured in Wyoming does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the Wyoming legislature that basic industrial materials, such as, but not limited to, polymers, unmachined metal, ferrous or nonferrous, bar stock, ingots or forgings 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 the United States congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearm accessories and ammunition made within Wyoming borders from those materials. Firearms accessories that are imported into Wyoming from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because the firearm accessory is attached to or used in conjunction with a firearm in Wyoming.

(b) A firearm manufactured or sold in Wyoming under this act shall have the words, "made in Wyoming" clearly

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stamped, inscribed or otherwise marked on a central part of the firearm, such as the receiver or frame.

(c) To possess a firearm covered by this section a person shall:

(i) Not have been convicted of any felony in any state, territory or other jurisdiction of the United States;

(ii) Not currently be adjudicated to be legally incompetent; and

(iii) Not have been committed to a mental institution.

(d) To purchase a firearm covered by this section a person shall:

(i) Be at least:

(A) Twenty-one (21) years of age if the firearm is a handgun;

(B) Eighteen (18) years of age if the firearm is a shotgun or rifle.

(ii) Not have been convicted of any felony in any state, territory or other jurisdiction of the United States;

(iii) Not currently be adjudicated to be legally incompetent; and

(iv) Not have been committed to a mental institution.

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6-8-405. Offenses and penalties; defense of Wyoming citizens.

(a) No public servant as defined in W.S. 6-5-101, or dealer selling any firearm in this state shall enforce or attempt to enforce any act, law, statute, rule or regulation of the United States government relating to a personal firearm, firearm accessory or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming.

(b) Any official, agent or employee of the United States government who enforces or attempts to enforce any act, order, law, statute, rule or regulation of the United States government upon a personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming shall be guilty of a misdemeanor and, upon conviction, shall be subject to imprisonment for not more than one (1) year, a fine of not more than two thousand dollars (\$2,000.00), or both.

(c) The attorney general may defend a citizen of Wyoming who is prosecuted by the United States government for violation of a federal law relating to the manufacture, sale, transfer or possession of a firearm, a firearm accessory or ammunition manufactured and retained exclusively within the borders of Wyoming.

6-8-406. Legislative findings and declaration of authority.

(a) The legislature declares that the authority for W.S. 6-8-402 through 6-8-406 is the following:

(i) The tenth amendment to the United States constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in

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the constitution and reserves to the state and the people of Wyoming certain powers as they were understood at the time that Wyoming was admitted to statehood in 1890. The guaranty of those powers is a matter of contract between the state and people of Wyoming and the several states comprising the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the several states comprising the United States in 1889;

(ii) The ninth amendment to the United States constitution guarantees to the people rights not granted in the constitution and reserves to the people of Wyoming certain rights, as they were understood at the time Wyoming was admitted to statehood in 1890. The guaranty of those rights is a matter of contract between the state and people of Wyoming and the several states comprising the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the United States in 1889;

(iii) The regulation of intrastate commerce is vested in the states under the ninth and tenth amendments to the United States constitution, particularly if not expressly preempted by federal law pursuant to article 1, section 8 of the United States constitution. The United States congress has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearms accessories and ammunition;

(iv) The second amendment to the United States constitution reserves to the people the right to keep and bear arms as that right was understood at the time the original states ratified the bill of rights to the United States constitution, and the guaranty of the right is a matter of contract between the state and people of Wyoming and the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the United States in 1889;

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(v) Article 1, section 24, of the Wyoming constitution secures the right of citizens the right to keep and bear arms and this right shall not be denied. This right predates the United States constitution and the Wyoming constitution and is unchanged from the 1890 Wyoming constitution, which was approved by congress and the people of Wyoming, and the right exists, as it was agreed upon and adopted by Wyoming and the United States in the Act of Admission;

(vi) Article 1, section 1, of the Wyoming constitution provides that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; for all the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish the government in such manner as they may think proper;

(vii) Article 1, section 7, of the Wyoming constitution provides that absolute, arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority;

(viii) Article 1, sections 1 and 7, of the Wyoming constitution clearly provide that the people of the state have the sole and exclusive right of governing themselves as a free, sovereign and independent state, and do so and forever hereafter shall exercise and enjoy every power, jurisdiction and right, pertaining thereto, which is not, or may not hereafter be, by them expressly delegated to the United States of America;

(ix) The declaration of independence clearly provides that government derives its power directly from the consent of the governed and Wyoming affirms the language of the second paragraph of the declaration of

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independence which states "We hold these truths to be self-evident, that all men are created equal, that they are endowed by the Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed...".

Section 2. W.S. 6-8-401 by creating a new subsection (a) and by amending and renumbering (a) as (c) is amended to read:

6-8-401. Firearm, weapon and ammunition regulation and prohibition by state.

(a) The Wyoming legislature finds that the right to keep and bear arms is a fundamental right. The Wyoming legislature affirms this right as a constitutionally protected right in every part of Wyoming.

~~(a)~~(c) The sale, transfer, purchase, delivery, taxation, manufacture, ownership, transportation, storage, use and possession of firearms, weapons and ammunition shall be authorized, regulated and prohibited by the state, and regulation thereof is preempted by the state. Except as authorized by W.S. 15-1-103(a)(xviii), no city, town, ~~or~~ county, political subdivision or any other entity shall authorize, regulate or prohibit the sale, transfer, purchase, delivery, taxation, manufacture, ownership, transportation, storage, use, carrying or possession of firearms, weapons, and accessories, components or ammunition except as specifically provided by this chapter. This section shall not affect zoning or other ordinances which encompass firearms businesses along with other businesses. Zoning and other ordinances which are designed for the purpose of restricting or prohibiting the sale, purchase, transfer or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in

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conflict with this section and are prohibited.

Section 3. W.S. 6-8-401(b) is repealed.

Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk