

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1291

By: Derby

6 AS INTRODUCED

7 An Act relating to firearms regulation; creating the  
8 Oklahoma Firearms Freedom Act; providing short title;  
9 providing legislative intent; providing definitions;  
10 making certain firearms, firearm accessories or  
11 ammunition exempt from federal law or federal  
12 regulation; providing exceptions; requiring certain  
13 identification mark on firearms manufactured or sold  
14 in Oklahoma; providing applicability of act;  
15 providing for codification; providing for  
16 noncodification; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law not to be  
17 codified in the Oklahoma Statutes reads as follows:

18 Sections 2 through 7 of this act shall be known and may be cited  
19 as the "Oklahoma Firearms Freedom Act".

20 SECTION 2. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 16-101 of Title 12A, unless  
22 there is created a duplication in numbering, reads as follows:

23 The Legislature declares that the authority for Sections 2  
24 through 5 of this act is the following:

1        1. The Tenth Amendment to the United States Constitution  
2 guarantees to the states and their people all powers not granted to  
3 the federal government elsewhere in the United States Constitution  
4 and reserves to the state and people of Oklahoma certain powers as  
5 they were understood at the time that Oklahoma was admitted to  
6 statehood in 1907. The guaranty of those powers is a matter of  
7 contract between the state and people of Oklahoma and the United  
8 States as of the time that the compact with the United States was  
9 agreed upon and adopted by Oklahoma and the United States in 1907;

10       2. The Ninth Amendment to the United States Constitution  
11 guarantees to the people rights not granted in the United States  
12 Constitution and reserves to the people of Oklahoma certain rights  
13 as they were understood at the time that Oklahoma was admitted to  
14 statehood in 1907. The guaranty of those rights is a matter of  
15 contract between the state and people of Oklahoma and the United  
16 States as of the time that the compact with the United States was  
17 agreed upon and adopted by Oklahoma and the United States in 1907;

18       3. The regulation of intrastate commerce is vested in the  
19 states under the Ninth and Tenth Amendments to the United States  
20 Constitution, particularly if not expressly preempted by federal  
21 law. Congress has not expressly preempted state regulation of  
22 intrastate commerce pertaining to the manufacture on an intrastate  
23 basis of firearms, firearm accessories, and ammunition;  
24

1        4. The Second Amendment to the United States Constitution  
2 reserves to the people the right to keep and bear arms as that right  
3 was understood at the time that Oklahoma was admitted to statehood  
4 in 1907, and the guaranty of the right is a matter of contract  
5 between the state and people of Oklahoma and the United States as of  
6 the time that the compact with the United States was agreed upon and  
7 adopted by Oklahoma and the United States in 1907; and

8        5. Article II, Section 26, of the Oklahoma Constitution clearly  
9 secures to Oklahoma citizens, and prohibits interference with, the  
10 right of individual Oklahoma citizens to keep and bear arms. This  
11 constitutional protection is unchanged from the 1907 Oklahoma  
12 Constitution, which was approved by Congress and the people of  
13 Oklahoma, and the right exists as it was understood at the time that  
14 the compact with the United States was agreed upon and adopted by  
15 Oklahoma and the United States in 1907.

16        SECTION 3.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 16-102 of Title 12A, unless  
18 there is created a duplication in numbering, reads as follows:

19        As used in Sections 2 through 5 of this act, the following  
20 definitions apply:

21        1. "Borders of Oklahoma" means the boundaries of Oklahoma  
22 described in Article I, Section 3, of the Oklahoma Constitution;

23        2. "Firearm accessories" means items that are used in  
24 conjunction with or mounted upon a firearm but are not essential to

1 the basic function of a firearm, including but not limited to  
2 telescopic or laser sights, magazines, flash or sound suppressors,  
3 folding or aftermarket stocks and grips, speed loaders, ammunition  
4 carriers, and lights for target illumination;

5 3. "Generic and insignificant parts" includes but is not  
6 limited to springs, screws, nuts, and pins; and

7 4. "Manufactured" means that a firearm, a firearm accessory, or  
8 ammunition has been created from basic materials for functional  
9 usefulness, including but not limited to forging, casting,  
10 machining, or other processes for working materials.

11 SECTION 4. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 16-103 of Title 12A, unless  
13 there is created a duplication in numbering, reads as follows:

14 A personal firearm, a firearm accessory, or ammunition that is  
15 manufactured commercially or privately in Oklahoma and that remains  
16 within the borders of Oklahoma is not subject to federal law or  
17 federal regulation, including registration, under the authority of  
18 Congress to regulate interstate commerce. It is declared by the  
19 Legislature that those items have not traveled in interstate  
20 commerce. This section applies to a firearm, a firearm accessory,  
21 or ammunition that is manufactured in Oklahoma from basic materials  
22 and that can be manufactured without the inclusion of any  
23 significant parts imported from another state. Generic and  
24 insignificant parts that have other manufacturing or consumer

1 product applications are not firearms, firearm accessories, or  
2 ammunition, and their importation into Oklahoma and incorporation  
3 into a firearm, a firearm accessory, or ammunition manufactured in  
4 Oklahoma does not subject the firearm, firearm accessory, or  
5 ammunition to federal regulation. It is declared by the Legislature  
6 that basic materials, such as unmachined steel and unshaped wood,  
7 are not firearms, firearm accessories, or ammunition and are not  
8 subject to congressional authority to regulate firearms, firearm  
9 accessories, and ammunition under interstate commerce as if they  
10 were actually firearms, firearm accessories, or ammunition. The  
11 authority of Congress to regulate interstate commerce in basic  
12 materials does not include authority to regulate firearms, firearm  
13 accessories, and ammunition made in Oklahoma from those materials.  
14 Firearm accessories that are imported into Oklahoma from another  
15 state and that are subject to federal regulation as being in  
16 interstate commerce do not subject a firearm to federal regulation  
17 under interstate commerce because they are attached to or used in  
18 conjunction with a firearm in Oklahoma.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 16-104 of Title 12A, unless  
21 there is created a duplication in numbering, reads as follows:

22 The provisions of Section 4 of this act do not apply to:

23 1. A firearm that cannot be carried and used by one person;  
24

1        2. A firearm that has a bore diameter greater than one and one-  
2 half (1 1/2) inches and that uses smokeless powder, not black  
3 powder, as a propellant;

4        3. Ammunition with a projectile that explodes using an  
5 explosion of chemical energy after the projectile leaves the  
6 firearm; or

7        4. A firearm that discharges two or more projectiles with one  
8 activation of the trigger or other firing device.

9        SECTION 6.        NEW LAW        A new section of law to be codified  
10 in the Oklahoma Statutes as Section 16-105 of Title 12A, unless  
11 there is created a duplication in numbering, reads as follows:

12        A firearm manufactured or sold in Oklahoma under the provisions  
13 of Sections 2 through 5 of this act must have the words "Made in  
14 Oklahoma" clearly stamped on a central metallic part, such as the  
15 receiver or frame.

16        SECTION 7.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 16-106 of Title 12A, unless  
18 there is created a duplication in numbering, reads as follows:

19        The provisions of this act apply to firearms, firearm  
20 accessories, and ammunition that are manufactured, as defined in  
21 Section 3 of this act, and retained in Oklahoma after November 1,  
22 2011.

SECTION 8. This act shall become effective November 1, 2011.

53-1-5640            GRS            12/28/10