

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1645

By: Ritze

AS INTRODUCED

An Act relating to firearms; creating the Oklahoma Firearms Freedom Act; providing short title; providing definitions; making certain firearms, firearm accessories or ammunition exempt from federal law or federal regulation; providing exceptions; requiring certain identification mark on firearms manufactured or sold in Oklahoma; establishing conditions for the possession and purchase of specified firearms; making certain acts unlawful; providing penalties; authorizing Attorney General to defend certain actions; providing legislative findings and declarations of authority; providing applicability of act; providing for noncodification; providing for codification; and providing an effective date.

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

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

This act shall be known and may be cited as the "Oklahoma Firearms Freedom Act".

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

1 As used in Sections 2 through 6 of this act, the following
2 definitions apply:

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

5 2. "Firearm" means any weapon which will or is designed to
6 expel a projectile by the action of an explosive and shall not
7 include any fully automatic weapon or any weapon designed to fire a
8 rocket-propelled grenade or any explosive projectile;

9 3. "Firearms accessories" means items that are used in
10 conjunction with or mounted upon a firearm but are not essential to
11 the basic function of a firearm including, but not limited to,
12 telescopic or laser sights, magazines, folding or aftermarket stocks
13 and grips, ammunition carriers, optics for target identification and
14 lights for target illumination;

15 4. "Generic and insignificant parts" includes but is not
16 limited to springs, screws, nuts, and pins; and

17 5. "Manufactured" means that a firearm, a firearm accessory, or
18 ammunition has been created from basic materials for functional
19 usefulness, including but not limited to forging, casting,
20 machining, molding or other processes for working materials.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 16-102 of Title 12A, unless
23 there is created a duplication in numbering, reads as follows:
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1 A. A personal firearm, a firearm accessory, or ammunition that
2 is manufactured commercially or privately in Oklahoma and that
3 remains exclusively within the borders of Oklahoma is not subject to
4 federal law, federal taxation or federal regulation, including
5 registration, under the authority of the United States congress to
6 regulate interstate commerce. It is declared by the Oklahoma
7 Legislature that those items have not traveled in interstate
8 commerce. This section applies to a firearm, a firearm accessory,
9 or ammunition that is manufactured in Oklahoma from basic materials
10 and that can be manufactured without the inclusion of any
11 significant parts imported from another state or foreign country.
12 Generic and insignificant parts that have other manufacturing or
13 consumer product applications are not firearms, firearms
14 accessories, or ammunition, and their importation into Oklahoma and
15 incorporation into a firearm, a firearm accessory, or ammunition
16 manufactured in Oklahoma does not subject the firearm, firearm
17 accessory, or ammunition to federal regulation. It is declared by
18 the Oklahoma Legislature that basic materials including, but not
19 limited to, polymers, unmachined metal, ferrous or nonferrous, bar
20 stock, ingots or forgings and unshaped wood are not firearms,
21 firearms accessories, or ammunition and are not subject to
22 congressional authority to regulate firearms, firearms accessories,
23 and ammunition under interstate commerce as if they were actually
24 firearms, firearms accessories, or ammunition. The authority of the

1 United States congress to regulate interstate commerce in basic
2 materials does not include authority to regulate firearms, firearms
3 accessories, and ammunition made within Oklahoma borders from those
4 materials. Firearms accessories that are imported into Oklahoma
5 from another state and that are subject to federal regulation as
6 being in interstate commerce do not subject a firearm to federal
7 regulation under interstate commerce because the firearm accessory
8 is attached to or used in conjunction with a firearm in Oklahoma.

9 B. A firearm manufactured or sold in Oklahoma under the
10 provisions of this act shall have the words "Made in Oklahoma"
11 clearly stamped, inscribed or otherwise marked on a central metallic
12 part of the firearm, such as the receiver or frame.

13 C. To possess a firearm covered by this section a person shall:

- 14 1. Not have been convicted of any felony in any state,
15 territory or other jurisdiction of the United States;
16 2. Not currently be adjudicated as legally incompetent; and
17 3. Not have been committed to a mental health institution.

18 D. To purchase a firearm covered by this section a person
19 shall:

- 20 1. Be at least:
21 a. twenty-one (21) years of age if the firearm is a
22 handgun, or
23 b. eighteen (18) years of age if the firearm is a shotgun
24 or rifle;

1 2. Not have been convicted of any felony in any state,
2 territory or other jurisdiction of the United States;

3 3. Not currently be adjudicated as legally incompetent; and

4 4. Not have been committed to a mental health institution.

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

8 A. No public official, public employee or dealer selling any
9 firearm in this state shall enforce or attempt to enforce any act,
10 law, statute, rule or regulation of the United States government
11 relating to a personal firearm, firearm accessory or ammunition that
12 is manufactured commercially or privately in Oklahoma and that
13 remains exclusively within the borders of Oklahoma.

14 B. Any official, agent or employee of the United States
15 government who enforces or attempts to enforce any act, order, law,
16 statute, rule or regulation of the United States government upon a
17 personal firearm, a firearm accessory or ammunition that is
18 manufactured commercially or privately in Oklahoma and that remains
19 exclusively within the borders of Oklahoma shall, upon conviction,
20 be guilty of a misdemeanor punishable by imprisonment in the county
21 jail for not more than one (1) year, or a fine of not more than Two
22 Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

23 C. The Attorney General may defend a citizen of Oklahoma who is
24 prosecuted by the United States government for violation of a

1 federal law relating to the manufacture, sale, transfer or
2 possession of a firearm, a firearm accessory or ammunition
3 manufactured and retained exclusively within the borders of
4 Oklahoma.

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

8 The Legislature declares that the authority for Sections 2
9 through 6 of this act is the following:

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

19 2. The Ninth Amendment to the United States Constitution
20 guarantees to the people rights not granted in the United States
21 Constitution and reserves to the people of Oklahoma certain rights
22 as they were understood at the time that Oklahoma was admitted to
23 statehood in 1907. The guaranty of those rights is a matter of
24 contract between the state and people of Oklahoma and the United

1 States as of the time that the compact with the United States was
2 agreed upon and adopted by Oklahoma and the United States in 1907;

3 3. The regulation of intrastate commerce is vested in the
4 states under the Ninth and Tenth Amendments to the United States
5 Constitution, particularly if not expressly preempted by federal
6 law. The United States congress has not expressly preempted state
7 regulation of intrastate commerce pertaining to the manufacture on
8 an intrastate basis of firearms, firearms accessories, and
9 ammunition;

10 4. The Second Amendment to the United States Constitution
11 reserves to the people the right to keep and bear arms as that right
12 was understood at the time that Oklahoma was admitted to statehood
13 in 1907, and the guaranty of the right is a matter of contract
14 between the state and people of Oklahoma and the United States as of
15 the time that the compact with the United States was agreed upon and
16 adopted by Oklahoma and the United States in 1907; and

17 5. Section 26 of Article II of the Oklahoma Constitution
18 clearly secures to Oklahoma citizens, and prohibits interference
19 with, the right of individual Oklahoma citizens to keep and bear
20 arms. This constitutional protection is unchanged from the 1907
21 Oklahoma Constitution, which was approved by the United States
22 congress and the people of Oklahoma, and the right exists as it was
23 understood at the time that the compact with the United States was
24 agreed upon and adopted by Oklahoma and the United States in 1907.

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

4 The provisions of this act applies to firearms, firearms
5 accessories, and ammunition that are manufactured, as defined in
6 Section 2 of this act, and retained in Oklahoma after November 1,
7 2011.

8 SECTION 7. This act shall become effective November 1, 2011.

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