

House Bill 1238

By: Representatives Jerguson of the 22<sup>nd</sup>, Hill of the 21<sup>st</sup>, Austin of the 10<sup>th</sup>, Allison of the 8<sup>th</sup>, Horne of the 71<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to dangerous instrumentalities and practices, so as to provide a short title; to provide  
3 a legislative declaration of authority; to define certain terms; to provide that a firearm  
4 manufactured and located in Georgia shall not be subject to federal law or regulations; to  
5 provide for exceptions; to provide for marking firearms manufactured in Georgia; to provide  
6 for applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 dangerous instrumentalities and practices, is amended by adding a new part to read as  
11 follows:

12 "Part 6

13 16-11-180.

14 This part shall be known and may be cited as the 'Georgia Firearms Freedom Act.'

15 16-11-181.

16 The General Assembly declares that the authority for this part derives from the following:

17 (1) The Tenth Amendment to the United States Constitution, which guarantees to the  
18 states and their people all powers not granted to the federal government elsewhere in the  
19 Constitution and reserves to the state and people of Georgia certain powers as they were  
20 understood at the time that the citizens of Georgia ratified the Constitution. The guaranty  
21 of those powers is a matter of contract between the state and people of Georgia and the  
22 United States as of the time that the compact with the United States was agreed upon and  
23 adopted by the 13 original states of these United States;

24 (2) The Ninth Amendment to the United States Constitution, which guarantees to the  
 25 people rights not granted in the Constitution and reserves to the people of Georgia certain  
 26 rights as they were understood at the time the union of states was formed. The guaranty  
 27 of those rights is a matter of contract between the state and people of Georgia and the  
 28 United States as of the time that the compact with the United States was agreed upon and  
 29 adopted by the 13 original states of these United States;

30 (3) The regulation of intrastate commerce vested in the states under the Ninth and Tenth  
 31 Amendments to the United States Constitution, particularly if not expressly preempted  
 32 by federal law. Congress has not expressly preempted state regulation of intrastate  
 33 commerce pertaining to the manufacture on an intrastate basis of firearms, firearms  
 34 accessories, and ammunition;

35 (4) The Second Amendment to the United States Constitution, which reserves to the  
 36 people the right to keep and bear arms as that right was understood at the time that the  
 37 union of states was formed, and the guaranty of the right is a matter of contract between  
 38 the state and people of Georgia and the United States as of the time that the compact with  
 39 the United States was agreed upon and adopted by the 13 original states of these United  
 40 States; and

41 (5) Article I, Section I, Paragraph VII of the Constitution of Georgia, which clearly  
 42 secures to Georgia citizens, and prohibits government interference with, the right of  
 43 individual Georgia citizens to keep and bear arms.

44 16-11-182.

45 As used in this part, the term:

46 (1) 'Borders of Georgia' means the boundaries of Georgia as deduced from the  
 47 Constitution of Georgia, the Convention of Beaufort, the Articles of Cession and  
 48 Agreement with the United States of America entered into on April 24, 1802, the  
 49 Resolution of the General Assembly dated December 8, 1826, and the adjudications and  
 50 compromises affecting Alabama, Florida, and South Carolina and are as described in  
 51 Code Section 50-2-1.

52 (2) 'Firearms accessories' means items that are used in conjunction with or mounted upon  
 53 a firearm but are not essential to the basic function of a firearm, including but not limited  
 54 to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket  
 55 stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.

56 (3) 'Generic and insignificant parts' includes but is not limited to springs, screws, nuts,  
 57 and pins.

58 (4) 'Manufactured' means that a firearm, a firearm accessory, or ammunition has been  
59 created from basic materials for functional usefulness, including but not limited to  
60 forging, casting, machining, or other processes for working materials.

61 16-11-183.

62 A personal firearm, a firearm accessory, or ammunition that is manufactured commercially  
63 or privately in Georgia and that remains within the borders of Georgia shall not be subject  
64 to federal law or federal regulation, including registration, under the authority of Congress  
65 to regulate interstate commerce. Such items shall not be deemed to have not traveled in  
66 interstate commerce. This part shall apply to a firearm, a firearm accessory, or ammunition  
67 that is manufactured in Georgia from basic materials and that can be manufactured without  
68 the inclusion of any significant parts imported from another state. Generic and  
69 insignificant parts that have other manufacturing or consumer product applications are not  
70 firearms, firearms accessories, or ammunition, and their importation into Georgia and  
71 incorporation into a firearm, a firearm accessory, or ammunition manufactured in Georgia  
72 shall not subject the firearm, firearm accessory, or ammunition to federal regulation. It is  
73 declared by the legislature that basic materials, such as unmachined steel and unshaped  
74 wood, are not firearms, firearms accessories, or ammunition and are not subject to  
75 congressional authority to regulate firearms, firearms accessories, and ammunition under  
76 interstate commerce as if they were actually firearms, firearms accessories, or ammunition.  
77 The authority of Congress to regulate interstate commerce in basic materials shall not  
78 include authority to regulate firearms, firearms accessories, and ammunition made in  
79 Georgia from those materials. Firearms accessories that are imported into Georgia from  
80 another state and subject to federal regulation as being in interstate commerce shall not  
81 subject a firearm to federal regulation under interstate commerce because they are attached  
82 to or used in conjunction with a firearm in Georgia.

83 16-11-184.

84 This part shall not apply to:

- 85 (1) A firearm that cannot be carried and used by one person;  
86 (2) A firearm that has a bore diameter greater than 1 1/2 inches and uses smokeless  
87 powder, not black powder, as a propellant;  
88 (3) Ammunition with a projectile that explodes using an explosion of chemical energy  
89 after the projectile leaves the firearm; or  
90 (4) A firearm that discharges two or more projectiles with one activation of the trigger  
91 or other firing device.

92 16-11-185.

93 A firearm manufactured or sold in Georgia under this part shall have the words 'Made in  
94 Georgia' clearly stamped on a central metallic part, such as the receiver or frame.

95 16-11-186.

96 The provisions of this part shall apply to firearms, firearms accessories, and ammunition  
97 that are manufactured and retained in Georgia after July 1, 2010."

98 **SECTION 2.**

99 All laws and parts of laws in conflict with this Act are repealed.