

House Bill 89

By: Representatives Benton of the 31st, Dutton of the 157th, Allison of the 8th, McCall of the 33rd, Cooke of the 18th, 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 exempt certain firearms from
3 federal regulations; to provide for a short title; to provide for legislative findings; to provide
4 for exceptions and applicability; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Georgia Firearms Freedom Act."

9 **SECTION 2.**

10 The General Assembly finds that:

- 11 (1) The Tenth Amendment to the United States Constitution guarantees to the states and
12 the people all powers not granted to the federal government elsewhere in the Constitution
13 and not prohibited by the Constitution;
- 14 (2) The Ninth Amendment to the United States Constitution guarantees to the people all
15 rights not otherwise enumerated in the Constitution;
- 16 (3) The regulation of intrastate commerce is vested in the states under the Ninth and
17 Tenth Amendments to the United States Constitution, particularly if not expressly
18 preempted by federal law. Congress has not expressly preempted state regulation of
19 intrastate commerce pertaining to the manufacture on an intrastate basis of firearms,
20 firearms accessories, and ammunition;
- 21 (4) The Second Amendment to the United States Constitution reserves to the people the
22 right to keep and bear arms; and
- 23 (5) Article I, Section I, Paragraph VIII of the Constitution of Georgia secures to Georgia
24 citizens the right to keep and bear arms.

25 **SECTION 3.**

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

29 "Part 630 16-11-190.

31 As used in this part, the term:

32 (1) 'Borders of Georgia' means the boundaries of the State of Georgia as described in
33 Chapter 2 of Title 50.

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

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

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

44 16-11-191.

45 A personal firearm, a firearm accessory, or ammunition that is manufactured commercially
46 or privately in Georgia and that remains within the borders of Georgia shall not be subject
47 to federal law or regulation, including registration, under the authority of Congress to
48 regulate interstate commerce. It is declared by the General Assembly that those items have
49 not traveled in interstate commerce. This Code section shall apply to a firearm, a firearm
50 accessory, or ammunition that is manufactured in Georgia from basic materials and that can
51 be manufactured without the inclusion of any significant parts imported from another state.
52 Generic and insignificant parts that have other manufacturing or consumer product
53 applications are not firearms, firearms accessories, or ammunition, and their importation
54 into Georgia and incorporation into a firearm, a firearm accessory, or ammunition that is
55 manufactured in Georgia shall not subject the firearm, firearm accessory, or ammunition
56 to federal regulation. It is declared by the General Assembly that basic materials, such as
57 unmachined steel and unshaped wood, are not firearms, firearms accessories, or
58 ammunition and are not subject to congressional authority to regulate firearms, firearms

59 accessories, or ammunition under interstate commerce as if they were actually firearms,
60 firearms accessories, or ammunition. The authority of Congress to regulate interstate
61 commerce in basic materials does not include authority to regulate firearms, firearms
62 accessories, or ammunition made in Georgia from those materials. Firearms accessories
63 that are imported into Georgia from another state and that are subject to federal regulation
64 as being in interstate commerce do not subject a firearm to federal regulation under
65 interstate commerce because such accessories are attached to or used in conjunction with
66 a firearm in Georgia.

67 16-11-192.

68 This part shall not apply to:

69 (1) A firearm that cannot be carried and used by one person;

70 (2) A firearm that has a bore diameter greater than 1.5 inches and that uses smokeless
71 powder, not black powder, as a propellant;

72 (3) Ammunition with a projectile that explodes using an explosion of chemical energy
73 after the projectile leaves the firearm; and

74 (4) A firearm that shoots or is designed to shoot, automatically, more than six shots,
75 without manual reloading, by a single function of the trigger or other firing device.

76 16-11-193.

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

79 16-11-194.

80 This part shall apply to all firearms, firearms accessories, or ammunition that are
81 manufactured and retained in Georgia after July 1, 2013."

82 **SECTION 4.**

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