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House Bill 89

By: Representatives Benton of the 31<sup>st</sup>, Dutton of the 157<sup>th</sup>, Allison of the 8<sup>th</sup>, McCall of the 33<sup>rd</sup>, Cooke of the 18<sup>th</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 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
- the people all powers not granted to the federal government elsewhere in the Constitution
- and not prohibited by the Constitution;
- 14 (2) The Ninth Amendment to the United States Constitution guarantees to the people all
- 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
- preempted by federal law. Congress has not expressly preempted state regulation of
- intrastate commerce pertaining to the manufacture on an intrastate basis of firearms,
- firearms accessories, and ammunition;
- 21 (4) The Second Amendment to the United States Constitution reserves to the people the
- right to keep and bear arms; and
- 23 (5) Article I, Section I, Paragraph VIII of the Constitution of Georgia secures to Georgia
- citizens the right to keep and bear arms.

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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 "<u>Part 6</u>

- 30 <u>16-11-190.</u>
- 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 <u>Chapter 2 of Title 50.</u>
- 34 (2) 'Firearms accessories' means items that are used in conjunction with or mounted upon
- 35 <u>a firearm but are not essential to the basic function of a firearm, including, but not limited</u>
- 36 to, telescopic or laser sights, magazines, flash or sound suppressors, folding or
- 37 <u>aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target</u>
- 38 <u>illumination.</u>
- 39 (3) 'Generic and insignificant parts' includes, but is not limited to, springs, screws, nuts,
- 40 <u>and pins.</u>
- 41 (4) 'Manufactured' means that a firearm, a firearm accessory, or ammunition has been
- 42 <u>created from basic materials for functional usefulness, including, but not limited to,</u>
- forging, casting, machining, or other processes for working materials.
- 44 <u>16-11-191.</u>

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- 45 A personal firearm, a firearm accessory, or ammunition that is manufactured commercially
- or privately in Georgia and that remains within the borders of Georgia shall not be subject
- 47 <u>to federal law or regulation, including registration, under the authority of Congress to</u>
- 48 <u>regulate interstate commerce. It is declared by the General Assembly that those items have</u>
- 49 <u>not traveled in interstate commerce. This Code section shall apply to a firearm, a firearm</u>
- 50 <u>accessory</u>, or ammunition that is manufactured in Georgia from basic materials and that can
- 51 <u>be manufactured without the inclusion of any significant parts imported from another state.</u>
- 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 <u>into Georgia and incorporation into a firearm, a firearm accessory, or ammunition that is</u>
- 55 manufactured in Georgia shall not subject the firearm, firearm accessory, or ammunition

to federal regulation. It is declared by the General Assembly that basic materials, such as

- 57 <u>unmachined steel and unshaped wood, are not firearms, firearms accessories, or</u>
- 58 ammunition and are not subject to congressional authority to regulate firearms, firearms

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59 <u>accessories</u>, or ammunition under interstate commerce as if they were actually firearms,

- 60 <u>firearms accessories, or ammunition</u>. The authority of Congress to regulate interstate
- 61 <u>commerce in basic materials does not include authority to regulate firearms, firearms</u>
- 62 <u>accessories</u>, 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
- as being in interstate commerce do not subject a firearm to federal regulation under
- 65 <u>interstate commerce because such accessories are attached to or used in conjunction with</u>
- 66 <u>a firearm in Georgia.</u>
- 67 <u>16-11-192.</u>
- 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 <u>powder, not black powder, as a propellant;</u>
- 72 (3) Ammunition with a projectile that explodes using an explosion of chemical energy
- after the projectile leaves the firearm; and
- 74 (4) A firearm that shoots or is designed to shoot, automatically, more than six shots,
- without manual reloading, by a single function of the trigger or other firing device.
- 76 <u>16-11-193.</u>
- 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 <u>16-11-194.</u>
- This part shall apply to all firearms, firearms accessories, or ammunition that are
- 81 manufactured and retained in Georgia after July 1, 2013."
- SECTION 4.
- 83 All laws and parts of laws in conflict with this Act are repealed.