



State of Wisconsin
2021 - 2022 LEGISLATURE

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2021 SENATE BILL 314

April 21, 2021 - Introduced by Senators FELZKOWSKI, BERNIER, JACQUE, MARKLEIN, NASS, ROTH and WANGGAARD, cosponsored by Representatives PRONSCHINSKE, AUGUST, ARMSTRONG, BRANDTJEN, CABRAL-GUEVARA, CALLAHAN, DALLMAN, EDMING, GUNDRUM, HORLACHER, JAMES, KUGLITSCH, MAGNAFICI, MOSES, MURPHY, NEYLON, NOVAK, ROZAR, SCHRAA, SKOWRONSKI, SORTWELL, STEFFEN, SUMMERFIELD, SWEARINGEN, THIESFELDT, TITTL, VANDERMEER, VORPAGEL and WICHGERS. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT to create** 20.932, 175.36 and 946.77 of the statutes; **relating to:**
2 restrictions on enforcing federal laws regulating firearms, firearm accessories,
3 and ammunition, the use of public resources to confiscate firearms, and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires a manufacturer of firearms in this state to include a stamp on the firearm that reads “Made in Wisconsin” or a similar stamp. This requirement applies only to firearms manufactured after the effective date of the bill.

Under this bill, a firearm, accessory, or ammunition that is owned or manufactured in this state and that does not leave this state is not subject to federal regulation under the interstate commerce clause of the U.S. Constitution. Also, under the bill, if a person incorporates a firearm component from another state into a firearm manufactured in Wisconsin, the incorporation does not subject the firearm to federal regulation under the commerce clause. In the case of a challenge to this provision, the legislature has included an intent statement that finds authority for it in the second, ninth, and tenth amendments to the U.S. Constitution and in article I, section 25, of the Wisconsin Constitution.

This bill also prohibits a person from enforcing a federal act, law, statute, rule, regulation, treaty, or order that takes effect on or after January 1, 2021, if it bans or restricts semi-automatic firearms, assault weapons, or magazines; requires registration of firearms, magazines, or other firearm accessories; regulates the capacity of magazines; regulates the quantity of ammunition or bullets an individual

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may possess; prohibits types of ammunition or bullets; or requires the confiscation of a firearm. The bill creates some exceptions, including allowing for the enforcement of such a federal law if it is identical to a state law. A person who violates the prohibition is guilty of a Class A misdemeanor.

Finally, the bill prohibits any state agency or other body in state government and any local governmental unit from expending moneys or using other resources to confiscate a firearm, firearm accessory, or ammunition that is lawfully possessed under the laws of Wisconsin.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.932 of the statutes is created to read:

2 **20.932 No use of public resources to confiscate firearms. (1)**

3 DEFINITIONS. In this section:

4 (a) “Local governmental unit” means a political subdivision of this state, a
5 special purpose district in this state, an agency or corporation of a political
6 subdivision or special purpose district, or a combination or subunit of any of the
7 foregoing.

8 (b) “State agency” means an association, authority, board, department,
9 commission, independent agency, institution, office, society, or other body in state
10 government created or authorized to be created by the constitution or any law.

11 **(2) PROHIBITION.** No state agency and no local governmental unit may expend
12 moneys or use other resources to confiscate a firearm, firearm accessory, or
13 ammunition that is lawfully possessed under the laws of this state.

14 **SECTION 2.** 175.36 of the statutes is created to read:

15 **175.36 Firearm requirement.** Any person who manufactures a firearm in
16 this state on or after the effective date of this section ... [LRB inserts date], shall have

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1 clearly stamped on a central metal part of the firearm “Made in Wisconsin” or an
2 abbreviated version if space does not permit or for other good reason.

3 **SECTION 3.** 946.77 of the statutes is created to read:

4 **946.77 Federal restrictions on firearms unconstitutional.** (1) The
5 legislature declares that the authority for this section is found in all of the following:

6 (a) The 10th amendment to the U.S. Constitution, which reserves to the state
7 or to the people all powers not delegated to the federal government elsewhere in the
8 constitution. The 10th amendment reserves to the state and people of Wisconsin
9 certain powers as they were understood at the time that Wisconsin was admitted to
10 statehood in 1848. The guarantee of those powers is a matter of contract between
11 the state and people of Wisconsin and the United States as of the time of statehood.

12 (b) The 9th amendment to the U.S. Constitution, which guarantees to the
13 people rights not granted in the constitution and reserves to the people of Wisconsin
14 certain rights as they were understood at the time Wisconsin was admitted to
15 statehood in 1848. The guarantee of these rights is a matter of contract between the
16 state and people of Wisconsin and the United States as of the time of statehood.

17 (c) The 2nd amendment to the U.S. Constitution, which reserves to the people,
18 individually, the right to keep and bear arms as that right was understood at the time
19 that Wisconsin was admitted to statehood in 1848. The guarantee of that right is a
20 matter of contract between the state and people of Wisconsin and the United States
21 as of the time of statehood.

22 (d) Article I, section 25, of the Wisconsin Constitution, which guarantees
23 Wisconsin citizens the right to keep and bear arms for security, defense, hunting,
24 recreation, or any other lawful purpose.

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1 **(2)** (a) A firearm, a firearm accessory, or ammunition that is owned or
2 manufactured in this state and that remains within the borders of this state is not
3 subject to federal law or federal regulation, including registration, under the
4 authority of Congress to regulate interstate commerce and is not considered to have
5 traveled in interstate commerce.

6 (b) 1. A component part of a firearm that has multiple manufacturing or
7 consumer product applications is not a firearm, a firearm accessory, or ammunition
8 and is not subject to a federal law regulating firearms, firearm accessories, or
9 ammunition.

10 2. Incorporation in a firearm, a firearm accessory, or ammunition of a
11 component part that has been imported into Wisconsin does not subject the firearm,
12 firearm accessory, or ammunition to a federal law regulating firearms, firearm
13 accessories, or ammunition and does not mean the firearm, firearm accessory, or
14 ammunition has traveled in interstate commerce.

15 **(3)** (a) In this subsection, “federal law” means any act, law, statute, rule,
16 regulation, treaty, or order of the U.S. government, including any federal firearm or
17 ammunition registration program, that takes effect on or after January 1, 2021.

18 (b) No person may knowingly enforce or attempt to enforce a federal law that
19 does any of the following:

20 1. Bans or restricts ownership or possession of semi-automatic firearms,
21 assault weapons, or magazines.

22 2. Requires registration of firearms, magazines, or other firearm accessories.

23 3. Regulates the capacity of magazines.

24 4. Regulates the quantity of ammunition or bullets an individual may possess.

25 5. Prohibits types of ammunition or bullets.

