

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 241

Short Title: North Carolina Firearms Freedom Act. (Public)

Sponsors: Representative Bradley (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary.

March 8, 2011

1 A BILL TO BE ENTITLED
2 AN ACT EXEMPTING FROM FEDERAL REGULATION UNDER THE COMMERCE
3 CLAUSE OF THE UNITED STATES CONSTITUTION A FIREARM, A FIREARM
4 ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN NORTH
5 CAROLINA.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Short title. – This act may be cited as the "North Carolina Firearms
8 Freedom Act."

9 **SECTION 2.** Declarations of authority. – The General Assembly declares that the
10 authority for this act is the following:

- 11 (1) The Tenth Amendment to the United States Constitution guarantees to the
12 states and their people all powers not granted to the federal government
13 elsewhere in the Constitution and reserves to the State and people of North
14 Carolina certain powers as they were understood at the time that North
15 Carolina adopted the Constitution in November 1789. The guaranty of those
16 powers is a matter of contract between the State and people of North
17 Carolina and the United States whereupon North Carolina was the first state
18 to ratify following the inclusion of a Bill of Rights, without which it would
19 not have been adopted, and the violation of said amendments usurps the
20 principles whereupon North Carolina joined the Union on November 21,
21 1789.
- 22 (2) The Ninth Amendment to the United States Constitution guarantees to the
23 people rights not granted in the Constitution and reserves to the people of
24 North Carolina certain rights as they were understood at the time that North
25 Carolina adopted the Constitution in 1789. The guaranty of those rights is a
26 matter of contract between the State and people of North Carolina and the
27 United States as of the time that the United States Constitution was agreed
28 upon and adopted by North Carolina in 1789.
- 29 (3) The regulation of intrastate commerce is vested in the states under the Ninth
30 and Tenth Amendments to the United States Constitution.
- 31 (4) The Second Amendment to the United States Constitution reserves to the
32 people the right to keep and bear arms as that right was understood at the
33 time that North Carolina ratified the Constitution in 1789, and the guaranty
34 of the right is a matter of contract between the State and people of North
35 Carolina and the United States as of the time that the United States



1 Constitution and Bill of Rights was agreed upon and adopted by North
2 Carolina in 1789.

3 (5) Section 30 of Article I of the North Carolina Constitution and Declaration of
4 Rights clearly secures to North Carolina citizens, and prohibits government
5 interference with, the right of individual North Carolina citizens to keep and
6 bear arms. To wit, "the right of the people to keep and bear arms shall not be
7 infringed; and, as standing armies in time of peace are dangerous to liberty,
8 they shall not be maintained, and the military shall be kept under strict
9 subordination to, and governed by, the civil power." This constitutional
10 protection is nearly unchanged from the original North Carolina
11 Constitution, which was approved by the Fifth Provincial Congress, and the
12 right exists as it was understood at the time that the United States
13 Constitution was agreed upon and ratified by North Carolina in 1789.

14 (6) The Federalist Papers (specifically Madison #46 and Hamilton #29), as well
15 as the entire history of the ratification of the Second Amendment, reveal that
16 the right to bear arms was primarily intended as the sole means of defense
17 and as a hedge against the potential tyranny of an overreaching Federal
18 Government.

19 (7) According to the natural law of logic, a right intentionally enumerated in
20 both the United States Constitution and within the North Carolina
21 Constitution specifically and directly intended as a hedge against the
22 potential tyranny of an overreaching Federal Government should not and
23 cannot in any way be defined by nor regulated from the very Federal
24 Government being so guarded.

25 **SECTION 3.** Definitions. – As used in this act the following definitions apply:

26 (1) "Firearms accessories" means items that are used in conjunction with or
27 mounted upon a firearm but are not essential to the basic function of a
28 firearm, including, but not limited, to telescopic or laser sights, magazines,
29 flash or sound suppressors, folding or aftermarket stocks and grips,
30 speedloaders, ammunition carriers, and lights for target illumination.

31 (2) "Generic and insignificant parts" includes, but is not limited to, springs,
32 screws, nuts, and pins.

33 (3) "Manufactured" means that a firearm, a firearm accessory, or ammunition
34 has been created from basic materials for functional usefulness, including,
35 but not limited to, forging, casting, machining, or other processes for
36 working materials.

37 **SECTION 4.(a)** Prohibitions. – A personal firearm, a firearm accessory, or
38 ammunition that is manufactured commercially or privately in North Carolina and that remains
39 within the borders of North Carolina is not subject to federal law or federal regulation,
40 including registration, under the authority of Congress to regulate interstate commerce. It
41 is declared that those items have not traveled in interstate commerce, and are thus under the direct
42 auspices of the Tenth Amendment to the United States Constitution wherein the power to
43 regulate these items are reserved to the State of North Carolina.

44 **SECTION 4.(b)** This section applies to a firearm, a firearm accessory, or
45 ammunition that is manufactured in North Carolina from basic materials and that can be
46 manufactured without the inclusion of any significant parts imported from another state.
47 Generic and insignificant parts that have other manufacturing or consumer product applications
48 are not firearms, firearms accessories, or ammunition, and their importation into North Carolina
49 and incorporation into a firearm, a firearm accessory, or ammunition manufactured in North
50 Carolina does not subject the firearm, firearm accessory, or ammunition to federal regulation.

1 **SECTION 4.(c)** It is declared that basic materials, such as unmachined steel and
2 unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to
3 congressional authority to regulate firearms, firearms accessories, and ammunition under
4 interstate commerce as if they were actually firearms, firearms accessories, or ammunition.

5 **SECTION 4.(d)** The authority of Congress to regulate interstate commerce in basic
6 materials does not include authority to regulate firearms, firearms accessories, and ammunition
7 made in North Carolina from those materials. Firearms accessories that are imported into North
8 Carolina from another state and that are subject to federal regulation as being in interstate
9 commerce do not subject a host firearm to federal regulation under interstate commerce
10 because they are attached to or used in conjunction with a firearm manufactured in North
11 Carolina.

12 **SECTION 5.** Exceptions. – Section 4 of this act does not apply to:

- 13 (1) A firearm that cannot be carried and used by one person.
- 14 (2) A firearm that has a bore diameter greater than one and one-half inches and
15 that uses smokeless powder, not black powder, as a propellant.
- 16 (3) Ammunition with a projectile that explodes using an explosion of chemical
17 energy after the projectile leaves the firearm.
- 18 (4) A firearm that discharges two or more projectiles with one activation of the
19 trigger or other firing device.

20 **SECTION 6.** Marketing of firearms. – A firearm manufactured or sold in North
21 Carolina under this act must have the words "Made in North Carolina" clearly stamped on a
22 central metallic part, such as the receiver or frame.

23 **SECTION 7.** Marketing of ammunition. – Ammunition manufactured or sold in
24 North Carolina under this act must have the words "Made in North Carolina" clearly visible on
25 the packaging at the time of sale; this shall not be interpreted to require such a stamp on the
26 ammunition itself.

27 **SECTION 8.** Enforcement Prohibited. – (a) Public employees employed at the
28 federal, State, or local levels, including, but not limited to, agents of the (i) Federal Bureau of
29 Investigation, (ii) Department of Homeland Security, (iii) Bureau of Alcohol, Tobacco,
30 Firearms and Explosives, (iv) State Bureau of Investigation, (v) Highway Patrol, (vi) sheriff's
31 departments, and (vii) municipal and county police departments, may not within North Carolina
32 enforce the provisions of the federal statutes upon firearms and produce in intrastate commerce.
33 Violation of this section is a Class 1A misdemeanor.

34 **SECTION 8.(b)** This section is effective only if Section 5 of Article I of the North
35 Carolina Constitution is amended so that it does not conflict with this act.

36 **SECTION 9.** The Governor and Attorney General each may enforce the provisions
37 of this act in court by seeking injunctive and other relief.

38 **SECTION 10.** Applicability. – This act applies to firearms, firearms accessories,
39 and ammunition that are manufactured and retained in North Carolina after the date this act
40 becomes law.