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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1988 Session of  
2009

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INTRODUCED BY ROHRER, TALLMAN, BAKER, BENNINGHOFF, BOYD, BROOKS,  
CAUSER, CHRISTIANA, CLYMER, CUTLER, DENLINGER, EVERETT,  
FAIRCHILD, FLECK, GABLER, GEIST, GIBBONS, GINGRICH, GODSHALL,  
GROVE, HESS, HORNAMAN, HUTCHINSON, KAUFFMAN, KORTZ, KOTIK,  
KRIEGER, MARSHALL, METCALFE, METZGAR, MOUL, MUSTIO, O'NEILL,  
PETRARCA, PHILLIPS, PICKETT, QUIGLEY, RAPP, READSHAW, REED,  
ROAE, ROCK, SOLOBAY, SONNEY, STEVENSON, SWANGER, TRUE, TURZAI  
AND VULAKOVICH, SEPTEMBER 18, 2009

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 18, 2009

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AN ACT

1 Prohibiting certain firearms, firearm accessories or ammunition  
2 from being subject to Federal law or Federal regulation.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Firearms  
7 Freedom Act.

8 Section 2. Findings and declarations.

9 The General Assembly finds and declares as follows:

10 (1) The 10th Amendment to the Constitution of the United  
11 States guarantees to the states and their people all powers  
12 not granted to the Federal Government elsewhere in the  
13 Constitution and reserves to the Commonwealth and people of  
14 Pennsylvania certain powers as they were understood at the  
15 time that Pennsylvania was admitted to statehood in 1787. The

1 guaranty of those powers is a matter of contract between the  
2 Commonwealth and people of Pennsylvania and the United States  
3 as of the time that the compact with the United States was  
4 agreed upon and adopted by Pennsylvania and the United States  
5 in 1787.

6 (2) The 9th Amendment to the Constitution of the United  
7 States guarantees to the people rights not granted in the  
8 Constitution and reserves to the people of Pennsylvania  
9 certain rights as they were understood at the time that  
10 Pennsylvania was admitted to statehood in 1787. The guaranty  
11 of those rights is a matter of contract between the  
12 Commonwealth and people of Pennsylvania and the United States  
13 as of the time that the compact with the United States was  
14 agreed upon and adopted by Pennsylvania and the United States  
15 in 1787.

16 (3) The regulation of intrastate commerce is vested in  
17 the states under the 9th and 10th Amendments to the  
18 Constitution of the United States, particularly if not  
19 expressly preempted by Federal law. Congress has not  
20 expressly preempted state regulation of intrastate commerce  
21 pertaining to the manufacture on an intrastate basis of  
22 firearms, firearms accessories and ammunition.

23 (4) The 2nd Amendment to the Constitution of the United  
24 States reserves to the people the right to keep and bear arms  
25 as that right was understood at the time that Pennsylvania  
26 was admitted to statehood in 1787, and the guaranty of the  
27 right is a matter of contract between the Commonwealth and  
28 people of Pennsylvania and the United States as of the time  
29 that the compact with the United States was agreed upon and  
30 adopted by Pennsylvania and the United States in 1787.

1           (5) Section 21 of Article I of the Constitution of  
2           Pennsylvania clearly secures to Pennsylvania citizens, and  
3           prohibits government interference with, the right of  
4           individual Pennsylvania citizens to keep and bear arms.

5 Section 3. Definitions.

6           The following words and phrases when used in this act shall  
7           have the meanings given to them in this section unless the  
8           context clearly indicates otherwise:

9           "Borders of Pennsylvania." The geographic boundaries of  
10          Pennsylvania.

11          "Firearms accessories." Items that are used in conjunction  
12          with or mounted on a firearm but are not essential to the basic  
13          function of a firearm.

14          "Generic and insignificant parts." The term includes  
15          springs, screws, nuts and pins.

16          "Manufactured." The creation of a firearm, a firearm  
17          accessory or ammunition from basic materials for functional  
18          usefulness.

19 Section 4. Prohibitions.

20          (a) Federal law.--A personal firearm, a firearm accessory or  
21          ammunition that is manufactured commercially or privately in  
22          Pennsylvania and that remains within the borders of Pennsylvania  
23          shall not be subject to Federal law or Federal regulation,  
24          including registration, under the authority of Congress to  
25          regulate interstate commerce.

26          (b) Applicability.--This section shall apply to a firearm, a  
27          firearm accessory or ammunition that is manufactured in  
28          Pennsylvania from basic materials and that can be manufactured  
29          without the inclusion of any significant parts imported from  
30          another state. Generic and insignificant parts that have other

1 manufacturing or consumer accessories or ammunition, and their  
2 importation into Pennsylvania and incorporation into a firearm,  
3 a firearm accessory or ammunition manufactured in Pennsylvania  
4 shall not subject the firearm, firearm accessory or ammunition  
5 to federal regulation.

6 (c) Declarations.--The General Assembly declares as follows:

7 (1) That a personal firearm, a firearm accessory or  
8 ammunition that is manufactured commercially or privately in  
9 Pennsylvania and that remains within the borders of  
10 Pennsylvania has not traveled in interstate commerce.

11 (2) That basic materials are not subject to  
12 Congressional authority to regulate firearms, firearms  
13 accessories and ammunition under interstate commerce as if  
14 they were actually firearms, firearms accessories or  
15 ammunition and that the authority of Congress to regulate  
16 interstate commerce in basic materials does not include  
17 authority to regulate firearms, firearms accessories and  
18 ammunition made in Pennsylvania from those materials.  
19 Firearms accessories that are imported into Pennsylvania from  
20 another state and that are subject to Federal regulation as  
21 being in interstate commerce do not subject a firearm to  
22 Federal regulation under interstate commerce because they are  
23 attached to or used in conjunction with a firearm in  
24 Pennsylvania.

25 (d) Exceptions.--This section shall not apply to any of the  
26 following:

27 (1) A firearm that cannot be carried and used by one  
28 person.

29 (2) A firearm that has a bore diameter greater than 1  
30 and 1/2 inches and that uses smokeless powder, not black

1 powder, as a propellant.

2 (3) Ammunition with a projectile that explodes using an  
3 explosion of chemical energy after the projectile leaves the  
4 firearm.

5 (4) A firearm that discharges two or more projectiles  
6 with one activation of the trigger or other firing device.

7 Section 5. Marketing of firearms.

8 A firearm manufactured or sold in Pennsylvania under this act  
9 must have the words "Made in Pennsylvania" clearly stamped on a  
10 central metallic part.

11 Section 6. Applicability.

12 This act shall apply to firearms, firearms accessories and  
13 ammunition that are manufactured and retained in Pennsylvania  
14 after October 1, 2009.

15 Section 20. Effective date.

16 This act shall take effect in 60 days.