

South Carolina General Assembly
120th Session, 2013-2014

S. 85

STATUS INFORMATION

General Bill

Sponsors: Senator Bright

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Currently residing in the Senate Committee on **Judiciary**

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/13/2012	Senate	Prefiled
12/13/2012	Senate	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 31, TITLE 23, TO ENACT THE “SOUTH CAROLINA FIREARMS FREEDOM ACT”, TO PROVIDE THAT A FIREARM, FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN SOUTH CAROLINA IS EXEMPT FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES.

Whereas, the tenth amendment to the United States Constitution guarantees and reserves for the states all powers not granted to the federal government in the Constitution; and

Whereas, the ninth amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of South Carolina certain rights. The guaranty of those rights is a matter of contract between the state and people of South Carolina and the United States; and

Whereas, the regulation of intrastate commerce is vested in the states under the ninth and 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; and

Whereas, the second amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that South Carolina was admitted to statehood in 1788, and the guaranty of the right is a matter of contract between the state and people of South Carolina and the

1 United States as of the time that the compact with the United
2 States was agreed upon and adopted by South Carolina and the
3 United States in 1788; and

4
5 Whereas, Article I, Section 20 of the South Carolina Constitution
6 clearly secures to South Carolina citizens, and prohibits
7 government interference with, the right of individual South
8 Carolina citizens to keep and bear arms. This constitutional
9 protection is unchanged from the 1895 South Carolina
10 Constitution, which was approved by Congress and the people of
11 South Carolina, and the right exists as it was understood at the time
12 that the compact with the United States was agreed upon and
13 adopted by South Carolina and the United States in 1895. Now,
14 therefore,

15
16 Be it enacted by the General Assembly of the State of South
17 Carolina:

18
19 SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended
20 by adding:

21
22 “Article 9

23
24 South Carolina Firearms Freedom Act

25
26 Section 23-31-700. This article may be cited as the ‘South
27 Carolina Firearms Freedom Act’.

28
29 Section 23-31-705. For purposes of this article:

30 (1) ‘Borders of South Carolina’ means the boundaries of South
31 Carolina described in Article I, Section 1 of the 1895 South
32 Carolina Constitution.

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

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

41 (4) ‘Manufactured’ means that a firearm, a firearm accessory,
42 or ammunition has been created from basic materials for functional

1 usefulness, including, but not limited to, forging, casting,
2 machining, or other processes for working materials.

3

4 Section 23-31-710. (A) A personal firearm, a firearm
5 accessory, or ammunition that is manufactured commercially or
6 privately in South Carolina and that remains within the borders of
7 South Carolina is not subject to federal law or federal regulation,
8 including registration, under the authority of Congress to regulate
9 interstate commerce.

10 (B) This section applies to a firearm, a firearm accessory, or
11 ammunition that is manufactured in South Carolina from basic
12 materials and that can be manufactured without the inclusion of
13 any significant parts imported from another state.

14 (1) Generic and insignificant parts that have other
15 manufacturing or consumer product applications are not firearms,
16 firearms accessories, or ammunition.

17 (2) Basic materials such as unmachined steel and unshaped
18 wood are not firearms, firearms accessories, or ammunition.

19 (C) Basic materials are subject only to intrastate commerce
20 regulation.

21 (D) Firearms accessories that are imported into South Carolina
22 from another state and that are subject to federal regulation as
23 being in interstate commerce do not subject a firearm to federal
24 regulation under interstate commerce because they are attached to
25 or used in conjunction with a firearm in South Carolina.

26

27 Section 23-31-715. This article does not apply to the
28 following:

29 (1) a firearm that cannot be carried and used by one person;

30 (2) a firearm that has a bore diameter greater than one and one
31 half inches and that uses smokeless powder, not black powder, as a
32 propellant;

33 (3) ammunition with a projectile that explodes using an
34 explosion of chemical energy after the projectile leaves the
35 firearm; or

36 (4) a firearm that discharges two or more projectiles with one
37 activation of the trigger or other firing device.

38

39 Section 23-31-720. A firearm manufactured or sold in South
40 Carolina under must have the words 'Made in South Carolina'
41 clearly stamped on a central metallic part, such as the receiver or
42 frame."

43

1 SECTION 2. This act takes effect upon approval by the Governor.

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