

By: Krause

H.B. No. 421

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to exempting the intrastate manufacture of a firearm, a  
3 firearm accessory, or ammunition from federal regulation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The Legislature of the State of Texas finds that:

6 (1) The Tenth Amendment to the United States  
7 Constitution reserves to the states and the people all powers not  
8 granted to the federal government elsewhere in the constitution, as  
9 those powers were understood at the time that Texas was admitted to  
10 statehood in 1845. The guaranty of those powers is a matter of  
11 contract between the state and people of Texas and the United States  
12 dating from the time Texas became a state.

13 (2) The Ninth Amendment to the United States  
14 Constitution guarantees to the people rights not enumerated in the  
15 constitution, as those rights were understood at the time Texas  
16 became a state. The guaranty of those rights is a matter of contract  
17 between the state and people of Texas and the United States dating  
18 from the time Texas became a state.

19 (3) The regulation of intrastate commerce is vested in  
20 the states under the Ninth and Tenth Amendments to the United States  
21 Constitution if not expressly preempted by federal law. The United  
22 States Congress has not expressly preempted state regulation of  
23 intrastate commerce relating to the manufacture on an intrastate  
24 basis of firearms, firearms accessories, and ammunition.

1           (4) The Second Amendment to the United States  
2 Constitution guarantees the right of the people to keep and bear  
3 arms, as that right was understood at the time Texas became a state.  
4 The guaranty of that right is a matter of contract between the state  
5 and people of Texas and the United States dating from the time Texas  
6 became a state.

7           (5) Section 23, Article I, Texas Constitution, secures  
8 to Texas citizens the right to keep and bear arms. That  
9 constitutional protection is unchanged from the date the  
10 constitution was adopted in 1876.

11           SECTION 2. The Legislature of the State of Texas declares  
12 that a firearm, a firearm accessory, or ammunition manufactured in  
13 Texas, as described by Chapter 2003, Business & Commerce Code, as  
14 added by this Act, that remains within the borders of Texas:

15           (1) has not traveled in interstate commerce; and

16           (2) is not subject to federal law or federal  
17 regulation, including registration, under the authority of the  
18 United States Congress to regulate interstate commerce.

19           SECTION 3. Title 99, Business & Commerce Code, is amended by  
20 adding Chapter 2003 to read as follows:

21           CHAPTER 2003. INTRASTATE MANUFACTURE OF A FIREARM, A FIREARM

22                           ACCESSORY, OR AMMUNITION

23           Sec. 2003.001. DEFINITIONS. In this chapter:

24           (1) "Firearm accessory" means an item that is used in  
25 conjunction with or mounted on a firearm but is not essential to the  
26 basic function of a firearm. The term includes a telescopic or laser  
27 sight, magazine, flash or sound suppressor, folding or aftermarket

1 stock and grip, speedloader, ammunition carrier, and light for  
2 target illumination.

3 (2) "Generic and insignificant part" means an item  
4 that has manufacturing or consumer product applications other than  
5 inclusion in a firearm, a firearm accessory, or ammunition. The  
6 term includes a spring, screw, nut, and pin.

7 (3) "Manufacture" includes forging, casting,  
8 machining, or another process for working a material.

9 Sec. 2003.002. MEANING OF "MANUFACTURED IN THIS STATE." (a)  
10 For the purposes of this chapter, a firearm, a firearm accessory, or  
11 ammunition is manufactured in this state if the item is  
12 manufactured:

13 (1) in this state from basic materials; and

14 (2) without the inclusion of any part imported from  
15 another state other than a generic and insignificant part.

16 (b) For the purposes of this chapter, a firearm is  
17 manufactured in this state if it is manufactured as described by  
18 Subsection (a) without regard to whether a firearm accessory  
19 imported into this state from another state is attached to or used  
20 in conjunction with it.

21 Sec. 2003.003. NOT SUBJECT TO FEDERAL REGULATION. (a) A  
22 firearm, a firearm accessory, or ammunition that is manufactured in  
23 this state and remains in this state is not subject to federal law  
24 or federal regulation, including registration, under the authority  
25 of the United States Congress to regulate interstate commerce.

26 (b) A basic material from which a firearm, a firearm  
27 accessory, or ammunition is manufactured in this state, including

1 unmachined steel and unshaped wood, is not a firearm, a firearm  
2 accessory, or ammunition and is not subject to federal regulation  
3 under the authority of the United States Congress to regulate  
4 interstate commerce as if it actually were a firearm, a firearm  
5 accessory, or ammunition.

6 Sec. 2003.004. EXCEPTIONS. This chapter does not apply to:

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

9 (2) a firearm that has a bore diameter greater than 1.5  
10 inches and that uses smokeless powder and not black powder as a  
11 propellant;

12 (3) ammunition with a projectile that explodes using  
13 an explosion of chemical energy after the projectile leaves the  
14 firearm; or

15 (4) any firearm that is capable of shooting more than  
16 two shots automatically, without manual reloading, by a single  
17 function of the trigger.

18 Sec. 2003.005. MARKETING OF FIREARMS. A firearm  
19 manufactured and sold in this state must have the words "Made in  
20 Texas" clearly stamped on a central metallic part, such as the  
21 receiver or frame.

22 Sec. 2003.006. ATTORNEY GENERAL. On written notification  
23 to the attorney general by a United States citizen who resides in  
24 this state of the citizen's intent to manufacture a firearm, a  
25 firearm accessory, or ammunition to which this chapter applies, the  
26 attorney general shall seek a declaratory judgment from a federal  
27 district court in this state that this chapter is consistent with

1 the United States Constitution.

2           SECTION 4. This Act applies only to a firearm, a firearm  
3 accessory, as that term is defined by Section 2003.001, Business &  
4 Commerce Code, as added by this Act, or ammunition that is  
5 manufactured on or after the effective date of this Act.

6           SECTION 5. This Act takes effect September 1, 2015.