86R1083 CLG-F

By:  Krause H.B. No. 227

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

(1)  has not traveled in interstate commerce; and

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

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

CHAPTER 2003. INTRASTATE MANUFACTURE OF A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION

Sec. 2003.001.  DEFINITIONS. In this chapter:

(1)  "Firearm accessory" means an item that is used in conjunction with or mounted on a firearm but is not essential to the basic function of a firearm. The term includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock and grip, speedloader, ammunition carrier, and light for target illumination.

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

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

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

(1)  in this state from basic materials; and

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

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

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

(b)  A basic material from which a firearm, a firearm accessory, or ammunition is manufactured in this state, including unmachined steel and unshaped wood, is not a firearm, a firearm accessory, or ammunition and is not subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm, a firearm accessory, or ammunition.

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

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

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

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

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

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

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

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

SECTION 5.  This Act takes effect September 1, 2019.