By: Hall S.B. No. 311

A BILL TO BE ENTITLED

1 AN ACT

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 <u>ACCESSORY, OR AMMUNITION</u>
- Sec. 2003.001. DEFINITIONS. In this chapter:
- (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 <u>in conjunction</u> with it.
- Sec. 2003.003. NOT SUBJECT TO FEDERAL REGULATION. (a) A
- 22 <u>firearm</u>, 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 <u>interstate commerce as if it actually were a firearm, a firearm</u>
- 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 <u>inches and that uses smokeless powder and not black powder as a</u>
- 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 <u>receiver or frame.</u>
- 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

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1 <u>the United States Constitution.</u>

- 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 immediately if it receives
- 7 a vote of two-thirds of all the members elected to each house, as
- 8 provided by Section 39, Article III, Texas Constitution. If this
- 9 Act does not receive the vote necessary for immediate effect, this
- 10 Act takes effect September 1, 2023.