

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 602

Introduced by Bloomfield, 17; Hansen, 42; Kintner, 2; Larson, 40;
Murante, 49; Schilz, 47; Watermeier, 1.

Read first time January 23, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to firearms; to adopt the Nebraska Firearms

2 Freedom Act.

3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and
2 may be cited as the Nebraska Firearms Freedom Act.

3 Sec. 2. The Legislature finds and declares that the
4 authority for the Nebraska Firearms Freedom Act is the following:

5 (1) The Tenth Amendment to the United States Constitution
6 which guarantees to the states and their people all powers not
7 granted to the federal government elsewhere in the Constitution and
8 reserves to the state and people of Nebraska certain powers as they
9 were understood at the time that Nebraska was admitted to statehood
10 in 1867. The guaranty of those powers is a matter of contract between
11 the state and people of Nebraska and the United States as of the time
12 that the compact with the United States was agreed upon and adopted
13 by Nebraska and the United States in 1867;

14 (2) The Ninth Amendment to the United States Constitution
15 which guarantees to the people rights not granted in the Constitution
16 and reserves to the people of Nebraska certain rights as they were
17 understood at the time that Nebraska was admitted to statehood in
18 1867. The guaranty of those rights is a matter of contract between
19 the state and people of Nebraska and the United States as of the time
20 that the compact with the United States was agreed upon and adopted
21 by Nebraska and the United States in 1867;

22 (3) The regulation of intrastate commerce which is vested
23 in the states under the Ninth and Tenth Amendments to the United
24 States Constitution;

25 (4) The Second Amendment to the United States

1 Constitution which reserves to the people the right to keep and bear
2 arms as that right was understood at the time that Nebraska was
3 admitted to statehood in 1867, and the guaranty of the right is a
4 matter of contract between the state and people of Nebraska and the
5 United States as of the time that the compact with the United States
6 was agreed upon and adopted by Nebraska and the United States in
7 1867;

8 (5) Article I, section 1, of the Constitution of Nebraska
9 which clearly secures to Nebraska citizens, and prohibits government
10 interference with, the right of individual Nebraska citizens to keep
11 and bear arms. This constitutional protection was enacted, as
12 amended, in 1988 by the citizens of Nebraska through Initiative
13 Measure No. 403 and is consistent with the contract Nebraska has with
14 the United States and the protections provided under the Second,
15 Ninth, Tenth, and Fourteenth Amendments to the United States
16 Constitution; and

17 (6) The One Hundred First Legislature which asserted its
18 claim to the protections provided under the Ninth and Tenth
19 Amendments to the United States Constitution by passing Legislative
20 Resolution 539 in April, 2010. This assertion was made by the
21 Legislature under the understanding of the contract that Nebraska has
22 with the United States as was agreed upon and adopted by Nebraska and
23 the United States in 1867.

24 Sec. 3. For purposes of the Nebraska Firearms Freedom
25 Act:

1 (1) Borders of Nebraska means the boundaries of Nebraska
2 as established in 1867;

3 (2) Firearm has the same meaning as in section 28-1201;

4 (3) Firearms accessories means items that are used in
5 conjunction with or mounted upon a firearm but are not essential to
6 the basic function of a firearm, including, but not limited to,
7 telescopic or laser sights, magazines, flash or sound suppressors,
8 folding or aftermarket stocks and grips, speed loaders, ammunition
9 carriers, and lights for target illumination;

10 (4) Generic and insignificant parts includes, but is not
11 limited to, springs, screws, nuts, and pins; and

12 (5) Manufactured means that a firearm, a firearm
13 accessory, or ammunition has been created from basic materials for
14 functional usefulness, including, but not limited to, forging,
15 casting, machining, or other processes for working materials.

16 Sec. 4. (1) A personal firearm, a firearm accessory, or
17 ammunition that is manufactured commercially or privately in Nebraska
18 and that remains within the borders of Nebraska is not subject to
19 federal law or federal regulation, including registration, under the
20 authority of the Congress to regulate interstate commerce. It is
21 declared by the Legislature that those items have not traveled in
22 interstate commerce. This section applies to a firearm, a firearm
23 accessory, or ammunition that is manufactured in Nebraska and that
24 can be manufactured without the inclusion of any significant parts
25 imported from another state. Generic and insignificant parts that

1 have other manufacturing or consumer product applications are not
2 firearms, firearms accessories, or ammunition and their importation
3 into Nebraska and incorporation into a firearm, a firearm accessory,
4 or ammunition manufactured in Nebraska does not subject the firearm,
5 firearm accessory, or ammunition to federal regulation. It is
6 declared by the Legislature that basic materials, such as unmachined
7 steel and unshaped wood, are not firearms, firearms accessories, or
8 ammunition and are not subject to congressional authority to regulate
9 firearms, firearms accessories, and ammunition under interstate
10 commerce as if they were actually firearms, firearms accessories, or
11 ammunition. The authority of the Congress to regulate interstate
12 commerce in basic materials does not include authority to regulate
13 firearms, firearms accessories, and ammunition made in Nebraska from
14 those materials. Firearms accessories that are imported into Nebraska
15 from another state and that are subject to federal regulation as
16 being in interstate commerce does not subject a firearm to federal
17 regulation under interstate commerce because they are attached to or
18 used in conjunction with a firearm in Nebraska.

19 (2) This section shall not apply to:

20 (a) A firearm that cannot be carried and used by one
21 person;

22 (b) A firearm that has a bore diameter greater than one
23 and one-half inches and that uses smokeless powder, not black powder,
24 as a propellant;

25 (c) Ammunition with a projectile that explodes using an

1 explosion of chemical energy after the projectile leaves the firearm;
2 or

3 (d) Other than shotguns, a firearm that discharges two or
4 more projectiles with one activation of the trigger or other firing
5 device.

6 Sec. 5. A firearm manufactured or sold in Nebraska under
7 the Nebraska Firearms Freedom Act must have the words "Made in
8 Nebraska" clearly stamped on a central metallic part, such as the
9 receiver or frame.

10 Sec. 6. (1) Any public servant of the State of Nebraska,
11 as defined in section 28-109, who enforces or attempts to enforce any
12 act, order, law, statute, rule, or regulation of the United States
13 Government relating to a personal firearm, firearm accessory, or
14 ammunition that is manufactured commercially or privately in Nebraska
15 and that remains exclusively within the borders of Nebraska shall be
16 guilty of a Class I misdemeanor.

17 (2) Any official, agent, or employee of the United States
18 Government who enforces or attempts to enforce any act, order, law,
19 statute, rule, or regulation of the United States Government upon a
20 personal firearm, a firearm accessory, or ammunition that is
21 manufactured commercially or privately in Nebraska and that remains
22 exclusively within the borders of Nebraska shall be guilty of a Class
23 I misdemeanor.

24 (3) The Attorney General may defend a citizen of Nebraska
25 who is prosecuted by the United States Government for violation of a

1 federal law relating to the manufacture, sale, transfer, or
2 possession of a firearm, a firearm accessory, or ammunition
3 manufactured and retained exclusively within the borders of Nebraska.