

1 This article may be cited as the "West Virginia Firearms
2 Freedom Act".

3 **§47-26-2. Legislative declarations of authority.**

4 The Legislature declares that the authority for this section
5 is as follows:

6 (a) The Tenth Amendment to the United States Constitution
7 guarantees to the states and their people all powers not granted to
8 the federal government elsewhere in the Constitution and reserves
9 to the state and people of West Virginia certain powers as they
10 were understood at the time that West Virginia was admitted to
11 statehood in 1863. The guaranty of those powers is a matter of
12 contract between the state and people of West Virginia and the
13 United States as of the time that the compact with the United
14 States was agreed upon and adopted by West Virginia and the United
15 States in 1863.

16 (b) The Ninth Amendment to the United States Constitution
17 guarantees to the people rights not granted in the Constitution and
18 reserves to the people of West Virginia certain rights as they were
19 understood at the time that West Virginia was admitted to statehood
20 in 1863. The guaranty of those rights is a matter of contract
21 between the state and people of West Virginia and the United States
22 as of the time that the compact with the United States was agreed
23 upon and adopted by West Virginia and the United States in 1863.

24 (c) The regulation of intrastate commerce is vested in the
25 states under the Ninth and Tenth Amendments to the United States

1 Constitution.

2 (d) The Second Amendment to the United States Constitution
3 reserves to the people the right to keep and bear arms as that
4 right was understood at the time that West Virginia was admitted to
5 statehood in 1863, and the guaranty of the right is a matter of
6 contract between the state and people of West Virginia and the
7 United States as of the time that the compact with the United
8 States was agreed upon and adopted by West Virginia and the United
9 States in 1863.

10 (e) Article III, Section 22 of the West Virginia Constitution
11 clearly secures to West Virginia citizens, and prohibits government
12 interference with, the right of individual West Virginia citizens
13 to keep and bear arms.

14 **§47-26-3. Definitions.**

15 As used in this article, the following definitions apply:

16 (a) "Borders of West Virginia" means the boundaries of West
17 Virginia described in Article II, Section 1 of the 1872 West
18 Virginia Constitution.

19 (b) "Firearms accessories" means items that are used in
20 conjunction with or mounted upon a firearm but are not essential to
21 the basic function of a firearm, including, but not limited to,
22 telescopic or laser sights, magazines, flash or sound suppressors,
23 folding or aftermarket stocks and grips, speedloaders, ammunition
24 carriers and lights for target illumination.

25 (c) "Generic and insignificant parts" includes, but is not

1 limited to, springs, screws, nuts and pins.

2 (d) "Manufactured" means that a firearm, a firearm accessory
3 or ammunition has been created from basic materials for functional
4 usefulness, including, but not limited to, forging, casting,
5 machining, or other processes for working materials or assembled
6 into a complete functional device from component parts.

7 **§47-26-4. Prohibitions.**

8 A personal firearm, a firearm accessory or ammunition that is
9 manufactured commercially or privately in West Virginia and that
10 remains within the borders of West Virginia is not subject to
11 federal law or federal regulation, including registration, under
12 the authority of Congress to regulate interstate commerce. It is
13 declared by the Legislature that those items have not traveled in
14 interstate commerce.

15 This section applies to a firearm, a firearm accessory or
16 ammunition that is manufactured in West Virginia from basic
17 materials and that can be manufactured without the inclusion of any
18 significant parts imported from another state. Generic and
19 insignificant parts that have other manufacturing or consumer
20 product applications are not firearms, firearms accessories or
21 ammunition and their importation into West Virginia and
22 incorporation into a firearm, a firearm accessory or ammunition
23 manufactured in West Virginia does not subject the firearm, firearm
24 accessory or ammunition to federal regulation. It is declared by
25 the Legislature that basic materials, such as unmachined steel and

1 unshaped wood, are not firearms, firearms accessories or ammunition
2 and are not subject to congressional authority to regulate
3 firearms, firearms accessories and ammunition under the interstate
4 commerce as if they were actually firearms, firearms accessories or
5 ammunition. The authority of Congress to regulate interstate
6 commerce in basic materials does not include authority to regulate
7 firearms, firearms accessories and ammunition made in West Virginia
8 from those materials. Firearms accessories that are imported into
9 West Virginia from another state and that are subject to federal
10 regulation as being in interstate commerce do not subject a firearm
11 to federal regulation under interstate commerce because they are
12 attached to or used in conjunction with a firearm in West Virginia.

13 **§47-26-5. Exceptions.**

14 Section two of this article does not apply to:

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

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

19 (c) Ammunition with a projectile that explodes using an
20 explosion of chemical energy after the projectile leaves the
21 firearm; or

22 (d) Excepting shotguns, a firearm that discharges two or more
23 projectiles with one activation of the trigger or other firing
24 device.

25 **§47-26-6. Marketing of firearms.**

1 A firearm manufactured in West Virginia under the provisions
2 of this section must have the words "Made in West Virginia" clearly
3 stamped on a central metallic part, such as the receiver or frame.

NOTE: The purpose of this bill is to exempt firearms, a firearm accessory, or ammunition manufactured and retained in West Virginia, from Federal regulation under the Commerce Clause of the Constitution of the United States.

This article is new; therefore, strike-throughs and underscoring have been omitted.