

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 10-0011.01 Julie Pelegrin

**SENATE BILL 10-092**

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**SENATE SPONSORSHIP**

**Schultheis**, Brophy, Cadman, Harvey, Kopp, Lundberg, Renfroe, Mitchell, Scheffel, King  
K.

**HOUSE SPONSORSHIP**

**King S.**, Sonnenberg, Gardner C., Stephens, Waller, Bradford, Baumgardner

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**Senate Committees**  
State, Veterans & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE EXEMPTION FROM FEDERAL REGULATION OF**  
102             **CERTAIN ITEMS RELATED TO EXERCISING THE RIGHT TO BEAR**  
103             **ARMS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill exempts from federal laws and regulations all firearms, firearm accessories, and ammunition that are manufactured in Colorado by persons who are not federally licensed and that are sold and remain in Colorado. The bill makes conforming amendments.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2       **SECTION 1.** Article 26 of title 12, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PART to read:

4   PART 2

5   FIREARMS FREEDOM ACT

6       **12-26-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "COLORADO FIREARMS FREEDOM ACT".

8       **12-26-202. Legislative declaration.** (1) THE GENERAL  
9 ASSEMBLY HEREBY FINDS THAT:

10           (a) THE UNITED STATES CONSTITUTION CREATES A FEDERAL  
11 GOVERNMENT OF ENUMERATED POWERS. AS STATED BY JAMES MADISON  
12 IN FEDERALIST NO. 45, "THE POWERS DELEGATED BY THE PROPOSED  
13 CONSTITUTION TO THE FEDERAL GOVERNMENT ARE FEW AND DEFINED.  
14 THOSE WHICH ARE TO REMAIN IN THE STATE GOVERNMENTS ARE  
15 NUMEROUS AND INDEFINITE".

16           (b) SECTION 8 OF ARTICLE I OF THE UNITED STATES  
17 CONSTITUTION, IN ENUMERATING THE POWERS OF THE FEDERAL  
18 GOVERNMENT, STATES THAT CONGRESS SHALL HAVE THE POWER "TO  
19 REGULATE COMMERCE...AMONG THE SEVERAL STATES...". THE PURPOSE  
20 OF THE COMMERCE CLAUSE WAS TO EMPOWER THE FEDERAL GOVERNMENT  
21 TO REGULATE TRADE BETWEEN AND AMONG THE STATES, THEREBY  
22 IMPROVING THE NATIONAL ECONOMY AND IMPROVING POLITICAL  
23 RELATIONS AMONG THE STATES.

24           (c) THE TENTH AMENDMENT TO THE UNITED STATES  
25 CONSTITUTION GUARANTEES TO THE STATES AND THEIR PEOPLE ALL  
26 POWERS NOT GRANTED TO THE FEDERAL GOVERNMENT ELSEWHERE IN THE

1       CONSTITUTION AND RESERVES TO THE STATE AND PEOPLE OF COLORADO  
2       CERTAIN POWERS AS THEY WERE UNDERSTOOD AT THE TIME THAT  
3       COLORADO WAS ADMITTED TO STATEHOOD IN 1876. THE GUARANTY OF  
4       THOSE POWERS IS A MATTER OF CONTRACT BETWEEN THE STATE AND  
5       PEOPLE OF COLORADO AND THE UNITED STATES AS OF THE TIME THAT  
6       COLORADO WAS ADMITTED TO STATEHOOD IN 1876.

7               (d)   THE NINTH AMENDMENT TO THE UNITED STATES  
8       CONSTITUTION GUARANTEES TO THE PEOPLE RIGHTS NOT GRANTED IN THE  
9       CONSTITUTION AND RESERVES TO THE PEOPLE OF COLORADO CERTAIN  
10      RIGHTS AS THEY WERE UNDERSTOOD AT THE TIME THAT COLORADO WAS  
11      ADMITTED TO STATEHOOD IN 1876. THE GUARANTY OF THOSE RIGHTS IS  
12      A MATTER OF CONTRACT BETWEEN THE STATE AND PEOPLE OF COLORADO  
13      AND THE UNITED STATES AS OF THE TIME THAT COLORADO WAS  
14      ADMITTED TO STATEHOOD IN 1876.

15              (e)   THE REGULATION OF INTRASTATE COMMERCE, A POWER THAT  
16      IS NOT SPECIFICALLY RESERVED TO THE FEDERAL GOVERNMENT IN THE  
17      UNITED STATES CONSTITUTION, IS THEREFORE VESTED IN THE STATES  
18      UNDER THE NINTH AND TENTH AMENDMENTS TO THE UNITED STATES  
19      CONSTITUTION;

20              (f)   THE SECOND AMENDMENT TO THE UNITED STATES  
21      CONSTITUTION RESERVES TO THE PEOPLE THE RIGHT TO KEEP AND BEAR  
22      ARMS AS THAT RIGHT WAS UNDERSTOOD AT THE TIME THAT COLORADO  
23      WAS ADMITTED TO STATEHOOD IN 1876, AND THE GUARANTY OF THAT  
24      RIGHT IS A MATTER OF CONTRACT BETWEEN THE STATE AND PEOPLE OF  
25      COLORADO AND THE UNITED STATES AS OF THE TIME THAT COLORADO  
26      WAS ADMITTED TO STATEHOOD IN 1876; AND

27              (g)   SECTION 13 OF ARTICLE II OF THE COLORADO CONSTITUTION

1 CLEARLY SECURES TO COLORADO CITIZENS, AND PROHIBITS GOVERNMENT  
2 INTERFERENCE WITH, THE RIGHT OF INDIVIDUAL COLORADO CITIZENS TO  
3 KEEP AND BEAR ARMS. THIS CONSTITUTIONAL PROTECTION IS UNCHANGED  
4 FROM THE 1876 COLORADO CONSTITUTION, WHICH WAS APPROVED BY  
5 CONGRESS AND THE PEOPLE OF COLORADO, AND THE RIGHT EXISTS AS IT  
6 WAS UNDERSTOOD AT THE TIME THAT COLORADO WAS ADMITTED TO  
7 STATEHOOD IN 1876.

8 (2) THE GENERAL ASSEMBLY CONCLUDES, THEREFORE, THAT THE  
9 FEDERAL GOVERNMENT IS WITHOUT POWER TO REGULATE FIREARMS THAT  
10 ARE MANUFACTURED, SOLD, AND USED SOLELY WITHIN THE BOUNDARIES  
11 OF COLORADO. FURTHER, A SCHEME OF FEDERAL REGULATIONS THAT  
12 EXTENDS TO FIREARMS THAT ARE MANUFACTURED, SOLD, AND USED  
13 SOLELY WITHIN THE BOUNDARIES OF COLORADO IS NOT SUBSTANTIALLY  
14 RELATED TO AN IMPORTANT, OR EVEN LEGITIMATE, GOVERNMENT  
15 OBJECTIVE AND THEREFORE, AS APPLIED TO SAID FIREARMS,  
16 UNCONSTITUTIONALLY BURDENS THE RIGHT TO BEAR ARMS GUARANTEED  
17 IN THE SECOND AMENDMENT TO THE UNITED STATES CONSTITUTION AND  
18 IN SECTION 13 OF ARTICLE II OF THE COLORADO CONSTITUTION.

19 **12-26-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
20 CONTEXT OTHERWISE REQUIRES:

21 (1) "BASIC MATERIALS" MEANS RAW MATERIALS, INCLUDING BUT  
22 NOT LIMITED TO UNMACHINED STEEL AND UNSHAPED WOOD, USED IN THE  
23 CREATION AND MANUFACTURE OF FIREARMS, FIREARM ACCESSORIES, OR  
24 AMMUNITION THAT HAVE MANUFACTURING OR CONSUMER PRODUCT  
25 APPLICATIONS OTHER THAN APPLICATIONS IN THE MANUFACTURE OF  
26 FIREARMS, FIREARM ACCESSORIES, OR AMMUNITION.

27 (2) "BORDERS OF COLORADO" MEANS THE BOUNDARIES OF

1 COLORADO DESCRIBED IN SECTION 2 OF THE ENABLING ACT OF COLORADO  
2 ENACTED BY THE UNITED STATES SENATE AND HOUSE OF  
3 REPRESENTATIVES IN 1876.

4 (3) "FIREARM ACCESSORIES" MEANS ITEMS THAT ARE USED IN  
5 CONJUNCTION WITH OR MOUNTED UPON A FIREARM BUT ARE NOT  
6 ESSENTIAL TO THE BASIC FUNCTION OF A FIREARM, INCLUDING BUT NOT  
7 LIMITED TO TELESCOPIC OR LASER SIGHTS, MAGAZINES, FLASH OR SOUND  
8 SUPPRESSORS, FOLDING OR AFTERMARKET STOCKS AND GRIPS,  
9 SPEEDLOADERS, AMMUNITION CARRIERS, AND LIGHTS FOR TARGET  
10 ILLUMINATION.

11 (4) "GENERIC AND INSIGNIFICANT PARTS" INCLUDES BUT IS NOT  
12 LIMITED TO SPRINGS, SCREWS, NUTS, AND PINS.

13 (5) "MANUFACTURED" MEANS THAT A FIREARM, A FIREARM  
14 ACCESSORY, OR AMMUNITION HAS BEEN CREATED FROM BASIC MATERIALS  
15 FOR FUNCTIONAL USEFULNESS THROUGH PROCESSES THAT INCLUDE BUT  
16 ARE NOT LIMITED TO FORGING, CASTING, MACHINING, AND OTHER  
17 PROCESSES FOR WORKING MATERIALS.

18 **12-26-204. Firearms, firearm accessories, ammunition - not**  
19 **subject to federal law or regulation - exceptions.** (1) (a) EXCEPT AS  
20 OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, A PERSONAL  
21 FIREARM, A FIREARM ACCESSORY, OR AMMUNITION THAT IS  
22 MANUFACTURED COMMERCIALY OR PRIVATELY IN COLORADO BY A  
23 PERSON WHO IS NOT FEDERALLY LICENSED AND THAT REMAINS WITHIN THE  
24 BORDERS OF COLORADO, AND A PERSON WHO MANUFACTURES,  
25 TRANSFERS, OR RECEIVES SAID FIREARM, FIREARM ACCESSORY, OR  
26 AMMUNITION, IS NOT SUBJECT TO FEDERAL LAW OR FEDERAL REGULATION,  
27 INCLUDING REGISTRATION, UNDER THE AUTHORITY OF CONGRESS TO

1 REGULATE INTERSTATE COMMERCE. THE GENERAL ASSEMBLY FINDS THAT  
2 SAID ITEMS HAVE NOT TRAVELED IN INTERSTATE COMMERCE AND  
3 THEREFORE ARE NOT SUBJECT TO FEDERAL REGULATION.

4 (b) THE PROVISIONS OF THIS SUBSECTION (1) APPLY TO A FIREARM,  
5 A FIREARM ACCESSORY, OR AMMUNITION THAT IS MANUFACTURED IN  
6 COLORADO BY A PERSON WHO IS NOT FEDERALLY LICENSED FROM BASIC  
7 MATERIALS AND THAT CAN BE MANUFACTURED WITHOUT THE INCLUSION  
8 OF ANY SIGNIFICANT PARTS IMPORTED FROM ANOTHER STATE. GENERIC  
9 AND INSIGNIFICANT PARTS THAT HAVE OTHER MANUFACTURING OR  
10 CONSUMER PRODUCT APPLICATIONS ARE NOT FIREARMS, FIREARM  
11 ACCESSORIES, OR AMMUNITION, AND THEIR IMPORTATION INTO COLORADO  
12 AND INCORPORATION INTO A FIREARM, A FIREARM ACCESSORY, OR  
13 AMMUNITION MANUFACTURED IN COLORADO DOES NOT SUBJECT THE  
14 FIREARM, FIREARM ACCESSORY, OR AMMUNITION TO FEDERAL  
15 REGULATION. THE GENERAL ASSEMBLY DECLARES THAT BASIC MATERIALS  
16 ARE NOT FIREARMS, FIREARM ACCESSORIES, OR AMMUNITION AND ARE NOT  
17 SUBJECT TO CONGRESSIONAL AUTHORITY TO REGULATE FIREARMS,  
18 FIREARM ACCESSORIES, AND AMMUNITION UNDER INTERSTATE COMMERCE  
19 AS IF THEY WERE ACTUALLY FIREARMS, FIREARM ACCESSORIES, OR  
20 AMMUNITION. THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE  
21 AUTHORITY OF CONGRESS TO REGULATE INTERSTATE COMMERCE IN BASIC  
22 MATERIALS DOES NOT INCLUDE AUTHORITY TO REGULATE FIREARMS,  
23 FIREARM ACCESSORIES, AND AMMUNITION MADE IN COLORADO FROM  
24 BASIC MATERIALS.

25 (c) FIREARM ACCESSORIES THAT ARE IMPORTED INTO COLORADO  
26 FROM ANOTHER STATE AND THAT ARE SUBJECT TO FEDERAL REGULATION  
27 AS BEING IN INTERSTATE COMMERCE DO NOT SUBJECT A FIREARM, OR A

1 PERSON WHO MANUFACTURES, TRANSFERS, OR RECEIVES THE FIREARM, TO  
2 FEDERAL REGULATION UNDER INTERSTATE COMMERCE BECAUSE SAID  
3 ACCESSORIES ARE ATTACHED TO OR USED IN CONJUNCTION WITH A  
4 FIREARM THAT IS MANUFACTURED IN COLORADO.

5 (2) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL  
6 APPLY TO A FIREARM MANUFACTURED AND SOLD IN COLORADO, AS  
7 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, ONLY IF THE WORDS  
8 "MADE IN COLORADO" ARE CLEARLY STAMPED ON A CENTRAL METALLIC  
9 PART OF THE FIREARM, SUCH AS THE RECEIVER OR FRAME.

10 (3) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL  
11 NOT APPLY TO:

12 (a) A FIREARM THAT CANNOT BE CARRIED AND USED BY ONE  
13 PERSON;

14 (b) A FIREARM THAT HAS A BORE DIAMETER GREATER THAN  
15 ONE-AND-ONE-HALF INCHES AND THAT USES SMOKELESS POWDER, RATHER  
16 THAN BLACK POWDER, AS A PROPELLANT;

17 (c) AMMUNITION WITH A PROJECTILE THAT EXPLODES USING AN  
18 EXPLOSION OF CHEMICAL ENERGY AFTER THE PROJECTILE LEAVES THE  
19 FIREARM; OR

20 (d) A FIREARM, OTHER THAN A SHOTGUN, THAT DISCHARGES TWO  
21 OR MORE PROJECTILES WITH ONE ACTIVATION OF THE TRIGGER OR OTHER  
22 FIRING DEVICE.

23 **SECTION 2.** The introductory portion to 12-26-101, Colorado  
24 Revised Statutes, is amended to read:

25 **12-26-101. Definitions.** As used in this ~~article~~ PART 1, unless the  
26 context otherwise requires:

27 **SECTION 3.** 12-26-104, Colorado Revised Statutes, is amended

1 to read:

2 **12-26-104. Jurisdiction - county courts.** County courts, within  
3 their respective counties, have jurisdiction to hear and determine all cases  
4 arising under the provisions of this ~~article~~ PART 1, and appeal from  
5 judgment shall be to the district courts in the respective counties in the  
6 same manner as is now provided by law for appeals from judgments of  
7 the county courts in the cases of misdemeanors.

8 **SECTION 4. Act subject to petition - effective date -**  
9 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
10 following the expiration of the ninety-day period after final adjournment  
11 of the general assembly (August 11, 2010, if adjournment sine die is on  
12 May 12, 2010); except that, if a referendum petition is filed pursuant to  
13 section 1 (3) of article V of the state constitution against this act or an  
14 item, section, or part of this act within such period, then the act, item,  
15 section, or part shall not take effect unless approved by the people at the  
16 general election to be held in November 2010 and shall take effect on the  
17 date of the official declaration of the vote thereon by the governor.

18 (2) The provisions of section 1 of this act shall apply to firearms,  
19 firearm accessories, and ammunition manufactured in Colorado on or  
20 after the applicable effective date of this act.