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HOUSE BILL NO. 69

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 12, 2010)

(Patrons Prior to Substitute—Delegates Carrico and Athey [HB 886])

A BILL to amend the Code of Virginia by adding a section numbered 18.2-308.2:4, relating to firearms, firearms accessories, and ammunition manufactured and retained in Virginia.

Whereas, the 10th Amendment of the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution; and

Whereas, the 9th Amendment to the United States Constitution guarantees to the people rights not enumerated in the Constitution; and

Whereas, the regulation of intrastate commerce is vested in the states under the 9th and 10th Amendments to the United States Constitution, particularly if not expressly preempted by federal law. Congress has not expressly preempted state regulation of commerce pertaining to the intrastate manufacture of firearms, firearms accessories, and ammunition; and

Whereas, the 2nd Amendment to the United States Constitution reserves to the people the right to keep and bear arms; and

Whereas, Article 1, Section 13 of the Constitution of Virginia clearly secures the right of Virginia citizens to keep and bear arms; now, therefore

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-308.2:4 as follows:

§ 18.2-308.2:4. Exemption of firearms, firearm accessories, and ammunition manufactured in Virginia from federal regulation.

A. As used in this section:

"Ammunition" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § 18.2-308.2:2.

"Basic materials" include but are not limited to unmachined steel and unshaped wood.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to expel single or multiple projectiles by action of an explosion of combustible material.

"Firearm accessory" means an item used in conjunction with or mounted upon a firearm, but which is not essential to the basic function of the firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.

"Generic and insignificant parts" include but are not limited to springs, screws, nuts, and pins.

"Manufactured" means that a firearm, firearm accessory, or ammunition has been created from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

B. Firearms, firearm accessories, and ammunition that are manufactured commercially or privately in Virginia, and that remain within the borders of Virginia, shall not be subject to federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce. Such firearms, firearm accessories, and ammunition are deemed to have not traveled in interstate commerce. This section shall be applicable to firearms, firearm accessories, and ammunition that are manufactured in Virginia from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state. The importation into Virginia of generic or insignificant parts that have other manufacturing or consumer product applications other than firearms, firearm accessories, or ammunition and that are incorporated into firearms, firearm accessories, or ammunition manufactured in Virginia shall not subject the firearms, firearm accessories, or ammunition to federal regulation. Basic materials used for manufacturing shall not be considered firearms, firearm accessories, or ammunition for purposes of this section, and shall not be subject to the authority of the United States Congress to regulate the interstate commerce of firearms, firearm accessories, or ammunition as if they actually were firearms, firearm accessories, or ammunition simply because the basic materials are used in the manufacture of firearms, firearm accessories, or ammunition in Virginia. Firearm accessories that are imported into Virginia from another state and that are subject to federal regulation as being in interstate commerce shall not subject a firearm manufactured in Virginia to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm manufactured in Virginia.

C. This section shall 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 one and one-half inches and that used smokeless

60 powder, and not black powder, as a propellant;

61 3. Ammunition with a projectile that explodes using an explosion of chemical energy after the
62 projectile leaves the firearm; or

63 4. A firearm that discharges two or more projectiles with open activation of the trigger or other
64 firing device.

65 D. In order to fall under the purview of this section, any firearm manufactured and sold in Virginia
66 shall have the words "Made in Virginia" clearly stamped on a central metallic part, such as on the
67 receiver or the frame.

68 E. This section shall apply to firearms, firearms accessories, and ammunition that are manufactured
69 and retained in Virginia on or after July 1, 2010.