

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

591R0176

SENATE BILL NO. 89

Introduced by: Senators Rhoden, Abdallah, Adelstein, Bartling, Bradford, Brown, Fryslie, Gant, Garnos, Gray, Hansen (Tom), Hanson (Gary), Haverly, Howie, Hunhoff (Jean), Kloucek, Maher, Miles, Nelson, Novstrup (Al), Olson (Russell), Peterson, and Schmidt and Representatives Noem, Bolin, Brunner, Carson, Cronin, Curd, Deadrick, Dennert, Faehn, Fargen, Feickert, Frerichs, Greenfield, Hamiel, Hoffman, Hunhoff (Bernie), Hunt, Jensen, Juhnke, Kirkeby, Kopp, Krebs, Lederman, Moser, Novstrup (David), Olson (Betty), Peters, Putnam, Rausch, Rave, Romkema, Rounds, Russell, Schlekeway, Schrempp, Sly, Solum, Steele, Tidemann, Turbiville, Van Gerpen, Vanneman, Verchio, and Wink

1 FOR AN ACT ENTITLED, An Act to exempt from federal regulation any firearm, firearm
2 accessory, or ammunition manufactured and retained in South Dakota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Firearm accessory," any item that is used in conjunction with or mounted upon a
6 firearm but is not essential to the basic function of a firearm, including any telescopic
7 or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock and
8 grip, speed loader, ammunition carrier, or light for target illumination;
- 9 (2) "Generic and insignificant part," any firearm part, including a spring, screw, nut, and
10 pin;
- 11 (3) "Manufactured," any firearm, firearm accessory, or ammunition which has been



1 created from basic materials for functional usefulness, including forging, casting,
2 machining, or other processes for working materials.

3 Section 2. Any firearm, firearm accessory, or ammunition that is manufactured
4 commercially or privately in South Dakota and that remains within the borders of South Dakota
5 is not subject to federal law or federal regulation, including registration, under the authority of
6 Congress to regulate interstate commerce. It is declared by the Legislature that those items have
7 not traveled in interstate commerce. This section applies to any firearm, firearm accessory, and
8 ammunition that is manufactured in South Dakota from basic materials and that can be
9 manufactured without the inclusion of any significant parts imported from another state. Any
10 generic and insignificant part that has other manufacturing or consumer product application is
11 not a firearm, firearm accessory, or ammunition, and importation of such parts into South
12 Dakota and incorporation into a firearm, a firearm accessory, or ammunition manufactured in
13 South Dakota does not subject the firearm, firearm accessory, or ammunition to federal
14 regulation. It is declared by the Legislature that any basic material, such as unmachined steel and
15 unshaped wood, is not a firearm, firearm accessory, or ammunition and is not subject to
16 congressional authority to regulate any firearm, firearm accessory, or ammunition under
17 interstate commerce as if it was actually a firearm, firearm accessory, or ammunition. The
18 authority of Congress to regulate interstate commerce in basic material does not include
19 authority to regulate any firearm, firearm accessory, or ammunition made in South Dakota from
20 such basic material. Any firearm accessory that is imported into South Dakota from another
21 state and that is subject to federal regulation as being in interstate commerce does not subject
22 a firearm to federal regulation under interstate commerce because it is attached to or used in
23 conjunction with a firearm in South Dakota.

24 Section 3. The provisions of section 2 of this Act do not apply to:

- 1 (1) A firearm that cannot be carried and used by one person;
- 2 (2) A firearm that has a bore diameter greater than one and one-half inches and that uses
3 smokeless powder, not black powder, as a propellant;
- 4 (3) Ammunition with a projectile that explodes using an explosion of chemical energy
5 after the projectile leaves the firearm; or
- 6 (4) A firearm that discharges two or more projectiles with one activation of the trigger
7 or other firing device.

8 Section 4. A firearm manufactured or sold in South Dakota pursuant to this Act shall have
9 the words, Made in South Dakota, clearly stamped on a central metallic part, such as the
10 receiver or frame.

11 Section 5. The provisions of this Act apply to any firearm, firearm accessory, or ammunition
12 that is manufactured and retained in South Dakota after July 1, 2010.