**South Carolina General Assembly**

120th Session, 2013-2014

**S. 489**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Bright and Bryant

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Companion/Similar bill(s): 285

Introduced in the Senate on March 6, 2013

Currently residing in the Senate Committee on **Judiciary**

Summary: Firearms Liberty Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/6/2013 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\03-06-13.docx))

3/6/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\03-06-13.docx))

**VERSIONS OF THIS BILL**

[3/6/2013](file:///p:\pprever\2013-14\489_20130306.docx)

**A** **BILL**

TO AMEND CHAPTER 31, TITLE 23 OF THE 1976 CODE, BY ADDING ARTICLE 9 TO ENACT THE “SOUTH CAROLINA FIREARMS LIBERTY ACT”, TO PROVIDE THAT A FIREARM, FIREARM ACCESSORY, OR AMMUNITION POSSESSED OR MANUFACTURED AND RETAINED IN SOUTH CAROLINA IS EXEMPT FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES, TO PROVIDE THAT ANY FEDERAL LAW TO RESTRICT THE POSSESSION, OWNERSHIP, OR MANUFACTURE OF A FIREARM PURSUANT TO THIS ARTICLE MAY NOT BE ENFORCED BY FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICIALS, AND TO PROVIDE FOR PENALTIES FOR FEDERAL OFFICIALS SEEKING TO ENFORCE FEDERAL LAW CONTRARY TO THE PROVISIONS OF THIS CHAPTER; AND BY ADDING ARTICLE 11 TO PROVIDE THAT FEDERAL ACTION TO RESTRICT OWNERSHIP OF A SEMI‑AUTOMATIC FIREARM OR MAGAZINE OF ANY FIREARM, OR THE REGISTRATION OF A FIREARM OR MAGAZINE, IS UNENFORCEABLE IN SOUTH CAROLINA.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 9

South Carolina Firearms Liberty Act

Section 23‑31‑700. This article may be cited as the ‘South Carolina Firearms Liberty Act’.

Section 23‑31‑705. For purposes of this article:

(1) ‘Borders of South Carolina’ means the boundaries of South Carolina described in Article I, Section 1 of the 1895 South Carolina Constitution.

(2) ‘Firearms accessories’ means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a 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.

(3) ‘Generic and insignificant parts’ includes, but is not limited to, springs, screws, nuts, and pins.

(4) ‘Manufactured’ means that a firearm, a 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.

Section 23‑31‑710. (A) A personal firearm, a firearm accessory, or ammunition that is possessed in this State or manufactured commercially or privately in this State and that remains within the borders of South Carolina is not subject to federal law or federal regulation, including registration, under the authority of Congress to regulate interstate commerce.

(B) This section applies to a firearm, a firearm accessory, or ammunition that is possessed in this State or manufactured in South Carolina from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state.

(1) Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition.

(2) Basic materials such as unmachined steel and unshaped wood are not firearms, firearms accessories, or ammunition.

(C) Basic materials are subject only to intrastate commerce regulation.

(D) Firearms accessories that are imported into South Carolina from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in South Carolina.

Section 23‑31‑715. This article does not apply to the following:

(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 uses smokeless powder, not black powder, as a propellant;

(3) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(4) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

Section 23‑31‑720. A firearm manufactured or sold in South Carolina under must have the words ‘Made in South Carolina’ clearly stamped on a central metallic part, such as the receiver or frame.

Section 23‑31‑725. (A) State and local law enforcement officials are prohibited from enforcing any act, law, statute, rule or regulation of the United States government relating to a personal firearm, firearm accessory, or ammunition that is possessed, owned, or manufactured commercially or privately in South Carolina and remains exclusively within the borders of South Carolina.

(B) Any official, agent, or employee of the United States government who enforces or attempts to enforce any act, order, law, statute, executive order, rule, or regulation of the United States government upon a personal firearm, a firearm accessory, or ammunition that is possessed, owned, or manufactured commercially or privately in South Carolina and that remains exclusively within the borders of South Carolina shall be guilty of a felony and, upon conviction, shall be subject to a fine of not more than five thousand dollars and imprisonment of up to five years, or both.

(C) The South Carolina Attorney General must defend a resident of South Carolina who is prosecuted by the United States government for violation of a federal law relating to the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition possessed, owned, or manufactured and retained exclusively within the borders of South Carolina.”

SECTION 2. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 11

Nullification of Unconstitutional Federal Limits

on the Right to Hold and Bear Arms

Section 23‑31‑900. Any federal law, rule, regulation, executive order, or other action taken on or after the effective date of this section shall be void ab initio and unenforceable with the borders of South Carolina if the law, rule, regulation, executive order, or other action attempts to:

(1) ban or restrict ownership of a semi‑automatic firearm or any magazine of a firearm; or

(2) require any firearm, magazine, or other firearm accessory to be registered in any manner with any federal, state, or local governmental entity.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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