

## **BILL ANALYSIS**

H.B. 1863  
By: Berman  
Public Safety  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Firearms and ammunition manufactured in the state of Texas using parts manufactured in the state of Texas have not participated in interstate commerce. The federal government, according to the Constitution of the United States of America, possesses no authority to regulate them.

H.B. 1863 exempts a firearm, a firearm accessory, or ammunition that is manufactured in Texas and remains in Texas from federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1863 amends the Business & Commerce Code to exempt a firearm, a firearm accessory, or ammunition that is manufactured in Texas and remains in Texas from federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce. The bill clarifies that a basic material from which a firearm, a firearm accessory, or ammunition manufactured in Texas, including unmachined steel and unshaped wood, is not a firearm, a firearm accessory, or ammunition and is not subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm, a firearm accessory, or ammunition. The bill specifies that a firearm, a firearm accessory, or ammunition is manufactured in Texas if the item is manufactured in Texas from basic materials and without the inclusion of any part imported from another state other than a generic and insignificant part. The bill specifies that a firearm is manufactured in Texas if it is manufactured without regard to whether a firearm accessory imported into Texas from another state is attached to or used in conjunction with it.

H.B. 1863 exempts from its provisions a firearm that cannot be carried and used by one person, a firearm that has a bore diameter greater than 1.5 inches and that uses smokeless powder and not black powder as a propellant, ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm, and a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

H.B. 1863 requires a firearm manufactured and sold in Texas to have the words "Made in Texas" clearly stamped on a central metallic part, such as the receiver or frame. The bill requires the attorney general to defend a citizen of Texas whom the federal government attempts to prosecute, claiming the power to regulate interstate commerce, for violation of a federal law concerning the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition manufactured and retained in Texas. The bill requires the attorney general, on written notification by a citizen of the citizen's intent to manufacture a firearm, a firearm accessory, or ammunition, to which the bill's provisions apply to seek a declaratory judgment

from a federal district court in Texas that the bill's provisions regarding the intrastate manufacture of a firearm, a firearm accessory, or ammunition are consistent with the United States Constitution.

H.B. 1863 defines "firearm accessory," "generic and insignificant part," and "manufacture."

H.B. 1863 sets forth legislative findings relating to the rights of the State of Texas to regulate intrastate commerce and the rights of the citizens of Texas to bear arms as guaranteed by the United States Constitution. The bill sets forth a legislative declaration that a firearm, a firearm accessory, or ammunition manufactured in Texas that remains within the state's borders is not subject to federal law or regulation.

**EFFECTIVE DATE**

September 1, 2009.