

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:30 p.m. on March 11, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Mitch Holmes- excused
Representative Mike Peterson- excused
Representative Dale Swenson- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Jason Long, Office of the Revisor of Statutes
Julian Efird, Legislative Research
Nikki Feuerborn, Committee Assistant

Conferees appearing before the Committee:

Patricia Stoneking, President, The Kansas State Rifle Association (Attachment 1)
Paul Degener, citizen

Representative Huebert moved for the introduction of legislation described as a trailer bill for the smoking ban bill at the request of Representative Landwehr. Motion was seconded by Representative Brown. Motion carried.

Hearing on HB 2620 - Kansas firearms freedom act

Mike Heim, Office of the Revisor of Statutes, explained the bill which would allow a firearm manufacturer in Kansas to stamp "Made in Kansas" on guns and sell them within the state borders, therefore, not being subject to federal licensure and jurisdiction.

Patricia Stoneking, President of The Kansas State Rifle Association, explained the bill as a states' rights bill in opposition to the Federal Firearms Act which is attempting to regulate all firearms under the guise of commerce (Attachment 1). At this time all firearms sold across state lines are must be licensed by the federal government. Ms. Stoneking pointed out that the real question is: Should a State be allowed to build and maintain business and industry within its borders without intrusive interference from the federal government? If a firearm marked "Made in Kansas" is found outside of the state, it and the person possessing the firearm would be subject to federal authority and probably criminal prosecution. The Federal Firearms Act will not affect existing firearm manufacturers who do not use the "Made in Kansas" logo. Court challenges are underway in several states with no tax dollars being involved in the law suits.

Paul Degener of Shawnee County testified that in his opinion the federal government is attempting to disarm Americans and that this effort began in 1968 with the gun control law.

Chairman Neufeld closed the hearing on **HB 2620**.

Representative Carlson moved to strip the language of SB 306 and insert the language of SB 504. Motion was seconded by Representative Brown. Motion carried.

Representative Ruiz moved to report SB 452 favorable for passage. Motion was seconded by Representative O'Brien. Motion carried.

Representative Knox announced the subcommittee meetings on **HB 2537** for Monday, March 15 and possibly Tuesday, March 16 at 1:00 p.m. in Room 346 South.

The next meeting is scheduled for March 16, 2010.

The meeting was adjourned at 2:25 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
HOUSE BILL NO. 2620 HEARING
MARCH 11, 2010

Thank you Mr. Chairman and members of the Committee, for allowing me to testify before you today. My name is Patricia Stoneking. I am the President and lobbyist for The Kansas State Rifle Association and I represent over 3400 members as well as myself. I am a proponent of House Bill Number 2620.

The FFA is primarily a states' rights challenge to the power of Washington to regulate everything under the guise of commerce among the several states. The states created the federal government to serve the states and the people. The states need to begin drawing boundaries and clearly demarked lines for their servant. The FFA is such a boundary.

One purpose of the FFA is to set up a court challenge to the federal commerce clause power. A lawsuit for this challenge to validate FFA principles has been filed in Montana. FFA's in other states lend momentum to this lawsuit. Private entities in other states with enacted FFA's may file their own such lawsuits. The Montana lawsuit to challenge federal commerce power is being prosecuted privately, at no cost to state taxpayers. The federal government never sued any states over states' Real ID rejection or over state-adopted medical marijuana laws. It would be extremely irregular for the feds to sue a state over an adopted FFA. Under the Kansas FFA, there is no requirement or authority to sue the federal government. Any litigation over an FFA would NOT be between an adopting state and the federal government. Any such litigation would almost certainly follow the Montana experience, private entities suing the federal government, at zero taxpayer expense, to validate the states' rights principles of the FFA.

Once validated in court, the FFA will open doors for in-state business and jobs in manufacture of state-made and retained firearms. The FFA will not affect existing firearm manufacturers. Those manufacturers are already federally licensed for an interstate market essential to the business model of those manufacturers.

Although judicial commerce clause precedent may not favor the FFA concept, that is exactly the reason to pass the FFA and challenge precedent. Precedent is never revised until it is challenged. The Supreme Court commonly overturns precedent. Revising precedent may be the primary function of the Supreme Court. The purpose of the FFA is to change the status quo, not to conform to the status quo.

The right to bear arms is clearly a fundamental right the people have reserved to themselves. That right is compromised if access to firearms is only through a federally controlled supply chain.

No organized political opposition to the FFA concept has emerged. There is little or no political downside to supporting the FFA and engaging in this potentially beneficial civics experiment.

The commerce clause was amended by the Tenth Amendment. It is a bedrock principle of jurisprudence that for any conflict between provisions of a co-equal body of law, the most recently-enacted must be given deference as the most recent expression of the enacting authority. This principle is ancient. Without this principle, laws could not be amended or repealed. Bad precedent must always fall to wise judicial review. The U.S. Supreme Court once upheld laws protecting slave ownership. That precedent was wrong and destined to be reversed. There are many other examples.

Firearms are the vehicle for this challenge, but it has much wider potential implications. The questions are, Should a State be allowed to build and maintain business and industry within its borders without intrusive interference from the federal government? Should a State be allowed to make its own construction materials to build schools and homes? Should a State require Uncle Sam's blessing to grow and transport food to feed its citizens?

A firearm manufactured under a state's FFA, marked "Made in Kansas" and found outside of the state would subject the firearm and the person possessing that firearm to federal authority, probably criminal prosecution. That firearm has crossed the state line and may be subject to the authority of Congress to regulate "commerce among the several states."

Existing manufacturers would NOT be affected by the FFA. They would not be players. Existing manufacturers must have a federal manufacturing license from the BATFE to make and sell guns. Also, they have a national or international market they depend on for their business model and volume. They must sell and ship across state lines - genuine "interstate commerce." Since they are necessarily under the thumb of the BATFE already and know how vindictive the BATFE can be, they would not risk playing in the state-retained guns market.

So, the FFA likely will apply to small machine shops, unlicensed gunsmiths and other tinkerers. Making firearms is not rocket science. It's been done for a long time. Anyone with computer-controlled machining equipment can knock out the actions for firearms. They might finish and sell them, or others might line up to buy state-made firearm actions and finish those for sale in-state as complete firearms under the FFA.

Thank you for allowing me this time to speak to you today and I will be happy to stand for questions at the appropriate time.

Respectfully Submitted,

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House Fed & State Affairs
Date: 3-11-2010

Attachment 1