



Kansas State Rifle Association

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RE: House Federal and State Affairs Committee, House Bill No. 2421 Hearing

Dear Chairman Brunk and Honorable Members of the Committee:

Thank you for considering my testimony. My name is Patricia Stoneking and I am the President and Registered Lobbyist for The Kansas State Rifle Association. I represent over 6000 KSRA members and 48,000 NRA members. I am a proponent of House Bill Number 2421.

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. 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. 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.

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.

Mr. Chairman and members of the Committee, thank you for considering our position in this most important matter. We respectfully urge that you vote in support of HB 2421, recommend it for passage, and send it to the floor of the House for a vote.

Respectfully Submitted,

President

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