

## SENATE BILL NO. 304

INTRODUCED BY R. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FIREARMS LAWS; CREATING OFFENSES FOR WRONGFUL ENFORCEMENT OF FEDERAL FIREARMS LAWS; PROVIDING PENALTIES; AND AMENDING SECTION 30-20-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 30-20-104, MCA, is amended to read:

**"30-20-104. Prohibitions.** A personal firearm, a firearm accessory, or ammunition that is owned or manufactured commercially or privately in Montana and that remains within the borders of Montana is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory, or ammunition that is owned or manufactured in Montana from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into Montana and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Montana does not subject the firearm, firearm accessory, or ammunition to federal regulation. It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were actually firearms, firearms accessories, or ammunition. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories, and ammunition made in Montana from those materials. Firearms accessories that are imported into Montana 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 Montana."

**NEW SECTION. Section 2. Wrongful enforcement of federal firearms laws -- penalties.** (1) A peace officer, state official, or official of a political subdivision who purposely or knowingly enforces a law, regulation,

1 or order of the United States that conflicts with the provisions of Title 30, chapter 20, part 1, is guilty of a  
2 misdemeanor and upon conviction shall be punished by a term of imprisonment in a county jail for not more than  
3 1 year, fined an amount not to exceed \$2,000, or both.

4 (2) An official, agent, or employee of the United States who purposely or knowingly enforces a law,  
5 regulation, or order of the United States relating to a personal firearm, firearm accessory, or ammunition  
6 manufactured in this state that conflicts with the provisions of Title 30, chapter 20, part 1, upon conviction shall  
7 be punished by a term of imprisonment for not less than 1 year or more than 5 years, fined an amount not to  
8 exceed \$5,000, or both.

9 (3) The attorney general may defend a citizen of Montana who is prosecuted by the United States  
10 government for violation of a federal law relating to the ownership, manufacture, sale, transfer, or possession of  
11 a firearm, a firearm accessory, or ammunition owned or manufactured and retained exclusively within the borders  
12 of Montana.

13 (4) As used in this section, the following definitions apply:

14 (a) "Agent" means an individual employed by the executive branch of the United States government with  
15 the authority of a peace officer to enforce a federal law, regulation, or order concerning firearms.

16 (b) "Official" means an individual in an appointive or elective position of any branch of government with  
17 the authority or duty under law to enforce a law, regulation, or order.

18 (c) "Order" means an order of an administrative or judicial tribunal or officer.

19 (d) "Peace officer" has the meaning provided in 45-2-101.

20 (e) "Political subdivision" means a city, town, county, or consolidated government.

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22 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
23 integral part of Title 30, chapter 20, part 1, and the provisions of Title 30, chapter 20, part 1, apply to [section 2].  
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25 **NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
26 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
27 remains in effect in all valid applications that are severable from the invalid applications.

28 - END -