

HB 1272 North Dakota firearm freedom act.

Thank you Mr. chairman and members of the business and labor committee.

I am representative Luke Simons from District 36 which is a large district on the western side of the state.

HB 1272 is a states rights bill, one that nine other states including Alaska, Arizona, Idaho, Montana, Kansas, Tennessee, South Dakota, Utah and Wyoming all have. They have had this in their century code for years. Three other states that I know of are looking at the exact same or very similar bill this year and you may have seen it on Fox news last week Tuesday.

The bill is straight to the point which is states rights.

-Colorado okayed marijuana which was an illegal scheduled drug with the federal government, but Colorado said in the state of Colorado it is OK, the federal government has not questioned the states authority to Break federal law.

I might add that if you partake of marijuana in Colorado though that is not against the law, now if you bring marijuana across the border into another state that now is against the law, and believe me all law-enforcement in other states are privy of this and keep their eye out for it.

-There are sanctuary cities all over America that allow illegal immigrants to be free and not harassed, although it is against federal law.

Same holds true, while these illegal immigrants are safe in the sanctuary cities, if they come out of those cities they are likely to be arrested.

North Dakota is simply stating by the passage of HB1272 that we are very pro gun and will not submit to any violations of the free people of North Dakota to own or manufacturer or sale of firearms accessory's and ammunition in the state of North Dakota.

Our new President of the United States has said that he will outlaw A.R. 15 's, which most North Dakotans know and love as their favorite varmint rifle, but he is also coming after ammunition accessories to guns and not just A.R. 15's, but all semi automatic rifles, not to mention magazines. This bill would be securing our rights as North Dakotans in the second amendment of the bill of rights and North Dakota constitution section 5.

I will stand for all questions.

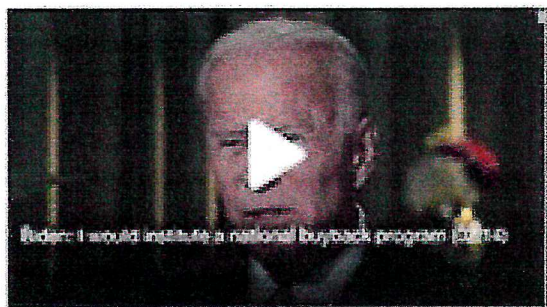
If you have any questions whatsoever please feel free to give me a call or just talk to me. North Dakota needs this bill.

Thank you Mr. Chairman and members of the committee.

Rep. Luke R Simons ND

Biden says if elected in 2020 he will push to ban assault weapons

By Kate Sullivan, CNN
 Updated 4:18 PM EDT Mon August 14, 2017



(CNN) — Joe Biden said he will push to ban assault weapons if elected president in 2020 — a pledge that comes as the nation debates how to curb gun violence following two deadly mass shootings that killed more

THE BIDEN PLAN TO END OUR GUN VIOLENCE EPIDEMIC

Joe Biden knows that gun violence is a public health epidemic. Almost 40,000 people die as a result of firearm injuries every year in the United States, and many more are wounded. Some of these deaths and injuries are the result of mass shootings that make national headlines. Others are the result of daily acts of gun violence or suicides that may not make national headlines, but are just as devastating to the families and communities left behind.

Joe Biden has taken on the National Rifle Association (NRA) on the national stage and won — twice. In 1993, he shepherded through Congress the Brady Background Checks, Denial of Access, and

“A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

North Dakota Article 1 Declaration of Rights Section 1

All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

This email is in response to your request for information relating to other states that have enacted a bill similar to House Bill No. 1272 (2021), any problems associated with those statutes, and the statutes enacted in Idaho and Wyoming.

According to a June, 2016 article entitled *North to the Future of the Right to Bear Arms: Analyzing the Alaska Firearms Freedom Act and Applying Firearm Localism to Alaska*, from the Alaska Law Review, at least 9 states have enacted some type of firearm freedom act in an attempt to nullify the federal government's ability to regulate personal firearms, firearm accessories, and ammunition that are manufactured entirely in a state and remain in that state. (33 Alaska L.Rev. 125).

Although Alaska, Arizona, Idaho, Montana, Kansas, Tennessee, South Dakota, Utah, and Wyoming have enacted some version of a Firearms Protection Act, both Kansas and Montana have had the validity of their statutes challenged in federal court.

While the Kansas case was dismissed for lack of standing, the Ninth Circuit Court of Appeals upheld the dismissal of the case in Montana (*Montana Shooting Sports Association v. Holder*, 727 F.3d 975 (9th Cir. 2013)) finding that the action failed to state a claim because the Montana legislation was preempted by federal law and as such was invalid. *Montana Shooting Sports Association v. Holder* was appealed to the United States Supreme Court who denied additional review.

On March 12, 2010, the Governor of Wyoming passed the Firearms Freedom Act, which calls for disobedience to federal laws and regulations. Section 6-08-404 of the Wyoming Statutes Annotated provides "A personal firearm, a firearm accessory or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming is not subject to federal law, federal taxation or federal regulation, including registration, under the authority of the United States congress to regulate interstate commerce."

The Idaho statute is nearly identical to the language enacted in Alaska.

HOUSE BILL NO. HB0095

Wyoming Firearms Freedom Act-2.

Sponsored by: Representative(s) Jaggi, Brechtel, Childers, Davison, Illoway, Madden, McKim, Pedersen, Quarberg, Shepperson and Teeters and Senator(s) Burns, Case, Cooper, Dockstader and Jennings

A BILL

for

1 AN ACT relating to the Wyoming Firearms Freedom Act;
2 establishing a Wyoming Firearms Freedom Act; providing that
3 specified firearms that are manufactured, sold, purchased,
4 possessed and used exclusively within Wyoming shall be
5 exempt from federal regulation, including registration
6 requirements; providing exceptions; creating offenses;
7 providing penalties; authorizing the attorney general to
8 defend specified actions; providing legislative findings
9 and declarations of authority; and providing for an
10 effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 6-8-402 through 6-8-406 are created
15 to read:

1

2 **6-8-402. Short title; applicability.**

3

4 (a) This act shall be known and may be cited as the
5 "Wyoming Firearms Freedom Act".

6

7 (b) This act shall apply to firearms, firearm
8 accessories and ammunition that are manufactured in
9 Wyoming.

10

11 **6-8-403. Definitions.**

12

13 (a) As used in this act:

14

15 (i) "Borders of Wyoming" means the boundaries of
16 Wyoming as described in Section 2 of the Act of Admission
17 of the state of Wyoming, 26 United States Statutes at
18 Large, 222, chapter 664;

19

20 (ii) "Firearm" means any weapon which will or is
21 designed to expel a projectile by the action of an
22 explosive;

23

1 (iii) "Firearms accessories" means items that
2 are used in conjunction with or mounted upon a firearm but
3 are not essential to the basic function of a firearm,
4 including, but not limited to, telescopic or laser sights,
5 magazines, flash or sound suppressors, folding or
6 aftermarket stocks and grips, speedloaders, ammunition
7 carriers, optics for target identification and lights for
8 target illumination;

9
10 (iv) "Generic and insignificant parts" includes,
11 but is not limited to, springs, screws, nuts and pins;

12
13 (v) "Manufactured" means that a firearm, a
14 firearm accessory or ammunition has been created from basic
15 materials for functional usefulness, including, but not
16 limited to forging, casting, machining, molding or other
17 processes for working materials;

18
19 (vi) "This act" means W.S. 6-8-401 through
20 6-8-406.

21
22 **6-8-404. Regulation by state of firearms, firearms**
23 **accessories and ammunition manufactured in Wyoming;**
24 **exceptions.**

1

2 (a) A personal firearm, a firearm accessory or
3 ammunition that is manufactured commercially or privately
4 in Wyoming and that remains exclusively within the borders
5 of Wyoming is not subject to federal law, federal taxation
6 or federal regulation, including registration, under the
7 authority of the United States congress to regulate
8 interstate commerce. It is declared by the Wyoming
9 legislature that those items have not traveled in
10 interstate commerce. This section applies to a firearm, a
11 firearm accessory or ammunition that is manufactured in
12 Wyoming from basic materials and that can be manufactured
13 without the inclusion of any significant parts imported
14 from another state or foreign country. Generic and
15 insignificant parts that have other manufacturing or
16 consumer product applications are not firearms, firearms
17 accessories or ammunition, and their importation into
18 Wyoming and incorporation into a firearm, firearm accessory
19 or ammunition manufactured in Wyoming does not subject the
20 firearm, firearm accessory or ammunition to federal
21 regulation. It is declared by the Wyoming legislature that
22 basic industrial materials, such as, but not limited to,
23 polymers, unmachined metal, ferrous or nonferrous, bar
24 stock, ingots or forgings and unshaped wood, are not

1 firearms, firearms accessories or ammunition and are not
2 subject to congressional authority to regulate firearms,
3 firearms accessories and ammunition under interstate
4 commerce as if they were actually firearms, firearms
5 accessories or ammunition. The authority of the United
6 States congress to regulate interstate commerce in basic
7 materials does not include authority to regulate firearms,
8 firearm accessories and ammunition made within Wyoming
9 borders from those materials. Firearms accessories that
10 are imported into Wyoming from another state and that are
11 subject to federal regulation as being in interstate
12 commerce do not subject a firearm to federal regulation
13 under interstate commerce because the firearm accessory is
14 attached to or used in conjunction with a firearm in
15 Wyoming.

16 (b) A firearm manufactured or sold in Wyoming under
17 this act shall have the words, "made in Wyoming" clearly
18 stamped, inscribed or otherwise marked on a central part of
19 the firearm, such as the receiver or frame.

20

21 **6-8-405. Offenses and penalties; defense of Wyoming**
22 **citizens.**

23

1 (a) Any public servant of the state of Wyoming, as
2 defined in W.S. 6-5-101, who enforces or attempts to
3 enforce any act, order, law, statute, rule or regulation of
4 the United States government relating to a personal
5 firearm, firearm accessory or ammunition that is
6 manufactured commercially or privately in Wyoming and that
7 remains exclusively within the borders of Wyoming shall be
8 guilty of a misdemeanor and, upon conviction, shall be
9 subject to imprisonment for not more than one (1) year, a
10 fine of not more than two thousand dollars (\$2,000.00), or
11 both.

12

13 (b) Any official, agent or employee of the United
14 States government who enforces or attempts to enforce any
15 act, order, law, statute, rule or regulation of the United
16 States government upon a personal firearm, a firearm
17 accessory or ammunition that is manufactured commercially
18 or privately in Wyoming and that remains exclusively within
19 the borders of Wyoming shall be guilty of a felony and,
20 upon conviction, shall be subject to imprisonment for not
21 more than two (2) years, a fine of not more than ten
22 thousand dollars (\$10,000.00), or both.

23

1 (c) The attorney general may defend a citizen of
2 Wyoming who is prosecuted by the United States government
3 for violation of a federal law relating to the manufacture,
4 sale, transfer or possession of a firearm, a firearm
5 accessory or ammunition manufactured and retained
6 exclusively within the borders of Wyoming.

7

8 **6-8-406. Legislative findings and declaration of**
9 **authority.**

10

11 (a) The legislature declares that the authority for
12 W.S. 6-8-402 through 6-8-406 is the following:

13

14 (i) The tenth amendment to the United States
15 constitution guarantees to the states and their people all
16 powers not granted to the federal government elsewhere in
17 the constitution and reserves to the state and the people
18 of Wyoming certain powers as they were understood at the
19 time that Wyoming was admitted to statehood in 1890. The
20 guaranty of those powers is a matter of contract between
21 the state and people of Wyoming and the several states
22 comprising the United States as of the time the Act of
23 Admission was agreed upon and adopted by Wyoming and the
24 several states comprising the United States in 1889;

1

2 (ii) The ninth amendment to the United States
3 constitution guarantees to the people rights not granted in
4 the constitution and reserves to the people of Wyoming
5 certain rights, as they were understood at the time Wyoming
6 was admitted to statehood in 1890. The guaranty of those
7 rights is a matter of contract between the state and people
8 of Wyoming and the several states comprising the United
9 States as of the time the Act of Admission was agreed upon
10 and adopted by Wyoming and the United States in 1889;

11

12 (iii) The regulation of intrastate commerce is
13 vested in the states under the ninth and tenth amendments
14 to the United States constitution, particularly if not
15 expressly preempted by federal law pursuant to article 1,
16 section 8 of the United States constitution. The United
17 States congress has not expressly preempted state
18 regulation of intrastate commerce pertaining to the
19 manufacture on an intrastate basis of firearms, firearms
20 accessories and ammunition;

21

22 (iv) The second amendment to the United States
23 constitution reserves to the people the right to keep and
24 bear arms as that right was understood at the time the

1 original states ratified the bill of rights to the United
2 States constitution, and the guaranty of the right is a
3 matter of contract between the state and people of Wyoming
4 and the United States as of the time the Act of Admission
5 was agreed upon and adopted by Wyoming and the United
6 States in 1889;

7

8 (v) Article 1, section 24, of the Wyoming
9 constitution secures the right of citizens the right to
10 keep and bear arms and this right shall not be denied.
11 This right predates the United States constitution and the
12 Wyoming constitution and is unchanged from the 1890 Wyoming
13 constitution, which was approved by congress and the people
14 of Wyoming, and the right exists, as it was agreed upon and
15 adopted by Wyoming and the United States in the Act of
16 Admission;

17

18 (vi) Article 1, section 1, of the Wyoming
19 constitution provides that all power is inherent in the
20 people, and all free governments are founded on their
21 authority, and instituted for their peace, safety and
22 happiness; for all the advancement of these ends they have
23 at all times an inalienable and indefeasible right to

1 alter, reform or abolish the government in such manner as
2 they may think proper;

3

4 (vii) Article 1, section 7, of the Wyoming
5 constitution provides that absolute, arbitrary power over
6 the lives, liberty and property of freemen exists nowhere
7 in a republic, not even in the largest majority;

8

9 (viii) Article 1, sections 1 and 7, of the
10 Wyoming constitution clearly provide that the people of the
11 state have the sole and exclusive right of governing
12 themselves as a free, sovereign and independent state, and
13 do so and forever hereafter shall exercise and enjoy every
14 power, jurisdiction and right, pertaining thereto, which is
15 not, or may not hereafter be, by them expressly delegated
16 to the United States of America;

17

18 (ix) The declaration of independence clearly
19 provides that government derives its power directly from
20 the consent of the governed and Wyoming affirms the
21 language of the second paragraph of the declaration of
22 independence which states "We hold these truths to be self-
23 evident, that all men are created equal, that they are
24 endowed by the Creator with certain inalienable Rights,

1 that among these are Life, Liberty and the pursuit of
2 Happiness. That to secure these rights, Governments are
3 instituted among Men, deriving their just powers from the
4 consent of the governed...".

5

6 **Section 2.** W.S. 6-8-401 by creating a new subsection
7 (a) and by amending and renumbering (a) as (c) is amended
8 to read:

9

10 **6-8-401. Firearm, weapon and ammunition regulation**
11 **and prohibition by state.**

12

13 (a) The Wyoming legislature finds that the right to
14 keep and bear arms is a fundamental right that predates the
15 United States constitution and the Wyoming constitution.
16 The Wyoming legislature affirms this right as a
17 constitutionally protected right in every part of Wyoming.

18

19 ~~(a)~~(c) The sale, transfer, purchase, delivery,
20 taxation, manufacture, ownership, transportation, storage,
21 use and possession of firearms, weapons and ammunition
22 shall be authorized, regulated and prohibited by the state,
23 and regulation thereof is preempted by the state. Except as
24 authorized by W.S. 15-1-103(a)(xviii), no city, town, ~~or~~

1 county, political subdivision or any other entity shall
2 authorize, regulate or prohibit the sale, transfer,
3 purchase, delivery, taxation, manufacture, ownership,
4 transportation, storage, use, carrying or possession of
5 firearms, weapons, ~~and~~ accessories, components or
6 ammunition except as specifically provided by this chapter.
7 This section shall not affect zoning or other ordinances
8 which encompass firearms businesses along with other
9 businesses. Zoning and other ordinances which are designed
10 for the purpose of restricting or prohibiting the sale,
11 purchase, transfer or manufacture of firearms or ammunition
12 as a method of regulating firearms or ammunition are in
13 conflict with this section and are prohibited.

14

15 **Section 3.** W.S. 6-8-401(b) is repealed.

16

17 **Section 4.** This act is effective immediately upon
18 completion of all acts necessary for a bill to become law
19 as provided by Article 4, Section 8 of the Wyoming
20 Constitution.

21

22

(END)