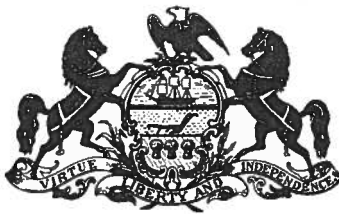


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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

Member
75th Legislative District

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STATE GOVERNMENT

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December 14, 2010

MEMORANDUM

TO: All House Members

FROM: Representative Matt Gabler

Handwritten initials "MG" in black ink.

SUBJECT: Introduction of Legislation – “Firearms Freedom Act” (formerly HB 1988 of 2009-10 introduced by Rep. Sam Rohrer)

In the near future, I am planning on re-introducing legislation (introduced by Rep. Sam Rohrer last session) that will help clarify the relationship between federal and state laws on firearms.

Under the current, expansive interpretation of the Interstate Commerce Clause in Article I, Section 8 of the U.S. Constitution, it is permissible for the Federal Government to regulate the sale of goods that are manufactured and sold exclusively within a state’s borders. Effectively, the Federal Courts hold that if a product might possibly find its way into streams of interstate commerce, federal laws to regulate that product are appropriate. The product does not actually need to be sold between states.

In 1942, the U.S. Supreme Court ruled against a farmer who was fined by the Federal Government for growing too much wheat. The argument in *Wickard v. Filburn* was that the wheat he grew and consumed himself would lead to decreased wheat sales in other states, so it fell under federal jurisdiction because of the interstate commerce clause.

As recently as 2005 (*Gonzales v. Raich*), the U.S. Supreme Court cited *Wickard* as standing for the proposition that “Congress can regulate purely intrastate activity that is not itself “commercial,” in that it is not produced for interstate sale, if it concludes that failure to regulate that class of activity would undercut the regulation of the interstate market of that commodity.”

According to the U.S. Supreme Court, wheat (in *Wickard*) and medical marijuana (in *Raich*) are completely indistinguishable from such products made and sold in interstate commerce, so federal regulation is appropriate. Arguably, there is no product manufactured in the United States that is more heavily regulated than that of firearms. Firearms are doubly regulated – under both federal and state laws. Considering the Federal Government’s track record of inserting itself into matters that would otherwise appear to be purely intrastate in nature, it is important for us as

state government leaders to ensure Pennsylvanians are not subjected to undue federal regulation over the right to keep and bear arms.

My legislation will establish that firearms and firearm accessories that are manufactured and exclusively sold in the Commonwealth of Pennsylvania, carrying the brand "Made in Pennsylvania" (all clear indicators of intrastate commerce), would be subject only to state law. This legislation is substantially similar to legislation that was enacted in Montana and introduced in Texas, Arizona, Alaska, Minnesota, South Carolina, Tennessee and a number of other states.

I strongly encourage you to join with me in this effort to reassert our legitimate authority over products made and sold within this Commonwealth. If you would like to be a co-sponsor of this legislation, please contact my secretary, Alex Baldivieso at 717-260-6142 or at abaldivi@pahousegop.com.

Prior cosponsors of HB 1988: ROHRER , TALLMAN, BAKER , BENNINGHOFF , BOYD , BROOKS , CAUSER , CHRISTIANA, CLYMER , CUTLER , DENLINGER , EVERETT , FAIRCHILD , FLECK , GABLER, GEIST , GIBBONS , GINGRICH , GODSHALL , GROVE, HESS , HORNAMAN , HUTCHINSON , KAUFFMAN , KORTZ , KOTIK , KRIEGER, MARSHALL , METCALFE , METZGAR, MOUL , MUSTIO , O'NEILL , PETRARCA , PHILLIPS , PICKETT , QUIGLEY , RAPP , READSHAW , REED , ROAE , ROCK , SOLOBAY , SONNEY , STEVENSON , SWANGER , TRUE , TURZAI , VULAKOVICH , M. KELLER , KILLION , OBERLANDER, MICOZZIE , HARRIS , REESE, HICKERNELL , COX , PEIFER , MAHONEY , BEAR , REICHLEY , HARHART , CASORIO , PYLE and DAY