

IN THE SENATE

SENATE BILL NO. 1349

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MACHINE GUNS; PROVIDING LEGISLATIVE FINDINGS AND INTENT; AMEND-
2 ING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
3 18-3328, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING MACHINE GUNS
4 AND CONTINGENT AUTHORIZATION; AMENDING CHAPTER 33, TITLE 18, IDAHO
5 CODE, BY THE ADDITION OF A NEW SECTION 18-3329, IDAHO CODE, TO ESTABLISH
6 PROVISIONS REGARDING A PROHIBITION ON ENFORCEMENT OF INVALID FEDERAL
7 RESTRICTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND
8 PROVIDING AN EFFECTIVE DATE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. LEGISLATIVE FINDINGS AND INTENT. (1) The Legislature of the
12 State of Idaho finds that:

13 (a) The right of the people to keep and bear arms is a fundamental, indi-
14 vidual right that shall not be infringed;

15 (b) The Second Amendment to the Constitution of the United States and
16 Section 11, Article I of the Constitution of the State of Idaho protect
17 the right of law-abiding citizens to keep and bear arms commonly pos-
18 sessed for lawful purposes;

19 (c) Federal law currently restricts the manufacture, transfer, and
20 possession of certain machine guns pursuant to 18 U.S.C. 922(o); and

21 (d) If such federal restrictions are repealed, invalidated, or oth-
22 erwise rendered unenforceable, Idaho should immediately recognize and
23 protect the right of law-abiding citizens and Idaho-based industry to
24 lawfully possess, manufacture, transfer, and sell machine guns in this
25 state, subject only to otherwise applicable state law.

26 (2) It is the intent of the Legislature to:

27 (a) Establish a contingent, or "trigger," framework under which Idaho
28 law automatically authorizes the lawful possession, manufacture,
29 transfer, and sale of machine guns upon the repeal, invalidation, or
30 unenforceability of 18 U.S.C. 922(o) or any successor provision;

31 (b) Ensure that Idaho is positioned as a national leader in firearms
32 freedom and related industry when such federal restrictions cease to
33 apply; and

34 (c) Prohibit the use of state and local resources to enforce federal re-
35 strictions that are no longer valid or enforceable.

36 SECTION 2. That Chapter 33, Title 18, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 18-3328, Idaho Code, and to read as follows:

39 18-3328. MACHINE GUNS -- CONTINGENT AUTHORIZATION. (1) As used in this
40 section:

1 (a) "Machine gun" means any firearm that shoots, is designed to shoot,
2 or can be readily restored to shoot automatically more than one (1)
3 shot, without manual reloading, by a single function of the trigger.

4 (b) "Trigger event" means the first to occur of any of the following:

5 (i) The repeal by congress of 18 U.S.C. 922(o), or any successor
6 provision that restricts the possession, transfer, or manufacture
7 of machine guns by civilians;

8 (ii) A decision of the supreme court of the United States that
9 holds 18 U.S.C. 922(o), or any successor provision that restricts
10 the possession, transfer, or manufacture of machine guns by civil-
11 ians, unconstitutional in whole or in relevant part;

12 (iii) A decision of a federal court of competent jurisdiction that
13 is binding in the state of Idaho and that permanently enjoins the
14 enforcement of 18 U.S.C. 922(o), or any successor provision that
15 restricts the possession, transfer, or manufacture of machine
16 guns by civilians, within the state of Idaho, and such decision is
17 not stayed; or

18 (iv) Formal written notice by the attorney general of the state
19 of Idaho that the bureau of alcohol, tobacco, firearms and explo-
20 sives, or any successor agency, has ceased enforcing 18 U.S.C.
21 922(o), or any successor provision that restricts the posses-
22 sion, transfer, or manufacture of machine guns by civilians, as to
23 law-abiding civilians generally.

24 (2) Upon the occurrence of a trigger event, and subject to the provi-
25 sions of subsection (3) of this section:

26 (a) It shall be lawful under the laws of the state of Idaho for any
27 person who is not otherwise prohibited from possessing firearms under
28 state or federal law to possess, purchase, receive, sell, transfer, or
29 manufacture a machine gun in this state; and

30 (b) No state agency, political subdivision, or employee thereof shall
31 adopt or enforce any rule, regulation, ordinance, or policy that has the
32 purpose or effect of prohibiting or unduly burdening the lawful posses-
33 sion, purchase, receipt, sale, transfer, or manufacture of machine guns
34 as authorized by this section.

35 (3) Nothing in this section shall:

36 (a) Authorize the possession of a machine gun by a person who is prohib-
37 ited from possessing firearms under state or federal law;

38 (b) Affect the application of generally applicable criminal laws, in-
39 cluding but not limited to laws relating to the use of firearms in the
40 commission of a crime, reckless endangerment, or unlawful discharge of
41 a firearm; or

42 (c) Be construed to require any person or entity to manufacture, sell,
43 or transfer a machine gun.

44 (4) The attorney general shall, within thirty (30) days after determin-
45 ing that a trigger event has occurred, publish notice of such determination
46 on the official website of the attorney general and transmit such notice to:

47 (a) The governor;

48 (b) The president pro tempore of the senate;

49 (c) The speaker of the house of representatives; and

50 (d) The director of the Idaho state police.

1 (5) The provisions of subsections (2) and (3) of this section shall be-
2 come operative on the thirtieth day following the date on which the attorney
3 general issues the notice described in subsection (4) of this section.

4 SECTION 3. That Chapter 33, Title 18, Idaho Code, be, and the same is
5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
6 ignated as Section 18-3329, Idaho Code, and to read as follows:

7 18-3329. PROHIBITION ON ENFORCEMENT OF INVALID FEDERAL RESTRIC-
8 TIONS. (1) Upon the occurrence of a trigger event, as defined in section
9 18-3328, Idaho Code, no agency, political subdivision, or employee of the
10 state of Idaho, acting in an official capacity, shall:

11 (a) Expend any funds or use any personnel or other resources to enforce,
12 or to assist in the enforcement of, 18 U.S.C. 922(o), or any successor
13 provision that restricts the possession, transfer, or manufacture of
14 machine guns, as defined in section 18-3328, Idaho Code, by civilians,
15 to the extent such provision has been repealed, invalidated, or ren-
16 dered unenforceable as described in section 18-3328, Idaho Code; or

17 (b) Provide material support or resources to any federal agency or
18 official for the purpose of investigating, citing, or prosecuting any
19 person for conduct that is lawful pursuant to section 18-3328, Idaho
20 Code.

21 (2) Nothing in this section shall be construed to:

22 (a) Prohibit cooperation or information-sharing relating to conduct
23 that remains unlawful under state or federal law; or

24 (b) Limit the authority of state or local law enforcement to investi-
25 gate or prosecute violations of state law.

26 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
27 to be severable and if any provision of this act or the application of such
28 provision to any person or circumstance is declared invalid for any reason,
29 such declaration shall not affect the validity of the remaining portions of
30 this act.

31 SECTION 5. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after
33 July 1, 2026.