

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1601

By: Representative D. Meeks

For An Act To Be Entitled

AN ACT TO REGULATE CITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS CONCERNING FIREARMS; TO PRESERVE STATE RESOURCES; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE CITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS CONCERNING FIREARMS; AND TO PRESERVE STATE RESOURCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds:

(1) That the right to keep and bear arms is a fundamental individual right that shall not be infringed;

(2) That it is the intent of the General Assembly in enacting this act to protect Arkansas employees, including law enforcement officers, from being directed, through federal executive orders, agency orders, statutes, laws, rules, or regulations enacted or promulgated on or after the effective date of this act, to violate their oath of office and individual rights affirmed under the Second Amendment to the United States Constitution and Article 2, § 5, of the Arkansas Constitution;

(3) That under and in furtherance of the principles of federalism enshrined in the United States Constitution, the federal government may not commandeer this state's officers, agents, or employees to participate in the enforcement or facilitation of any federal program not expressly required by the United States Constitution;



(4) That this right to be free from the commandeering hand of the federal government has been most notably recognized by the United States Supreme Court in *Printz v. United States*, 521 U.S. 898 (1997), when the court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program"; and

(5) That the anti-commandeering principles recognized in *Printz v. United States*, 521 U.S. 898 (1997), are predicated upon the advice of James Madison, who in *The Federalist*, Number 46, advised a "refusal to cooperate" with officers of the "Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures.

SECTION 2. Arkansas Code § 14-16-504 is amended to read as follows:

14-16-504. Regulation by local unit of government.

(a) As used in this section, "local unit of government" means a city, town, or county.

(b)(1)(A) A local unit of government shall not enact any ordinance or regulation pertaining to, or regulate in any other manner, the ownership, transfer, transportation, carrying, or possession of firearms, ammunition for firearms, or components of firearms, except as otherwise provided in state or federal law.

(B) The provision in subdivision (b)(1)(A) of this section does not prevent the enactment of an ordinance regulating or forbidding the unsafe discharge of a firearm.

(2)(A) A local unit of government shall not have the authority to bring suit and shall not have the right to recover against any firearm or ammunition manufacturer, trade association, or dealer for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public.

(B) The authority to bring any suit and the right to recover against any firearm or ammunition manufacturer, trade association, or dealer for damages, abatement, or injunctive relief shall be reserved exclusively to the State of Arkansas.

(C) However, subdivisions (b)(1)(A) and (B) of this section do not prevent a local unit of government from bringing suit against

a firearm or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the local unit of government.

(c)(1) The governing body of a local unit of government, following ~~the~~ a proclamation by the Governor of a state of emergency, is prohibited from enacting an emergency ordinance regulating the transfer, transportation, or carrying of firearms or components of firearms.

(2) A person who has his or her firearm seized in violation of subdivision (c)(1) of this section may bring an action in the circuit court having jurisdiction for the return of the seized firearm.

(d)(1) A local unit of government of this state shall not receive state grant funds if the local unit of government adopts a rule, order, ordinance, or policy under which the director or employee of the local unit of government violates § 25-1-123.

(2) State grant funds for the local unit of government shall be denied for the fiscal year following the year in which a final judicial determination in an action under § 25-1-123 is made that the director or employee of the local unit of government has intentionally required actions that violate the prohibitions under § 25-1-123.

SECTION 3. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

25-1-123. Violations against a state agency enforcing a federal act involving firearms.

(a)(1) A person who is director of or an employee of an agency of this state acting in his or her official capacity shall not knowingly:

(A) Participate in the enforcement of any federal act, law, order, rule, or regulation issued, enacted, or promulgated on or after the effective date of this act regarding a personal firearm, firearm accessory, or ammunition; or

(B) Utilize assets, state funds, or funds allocated by the state to local entities, in whole or in part, to engage in activity that aids a federal agency, federal agent, or corporation providing services to the federal government in the enforcement or any investigation under the enforcement of a federal act, law, order, rule, or regulation issued regarding a personal firearm, firearm accessory, or ammunition.

(b)(1) A person who violates this section shall be guilty of a violation and subject to a civil penalty not to exceed three thousand dollars (\$3,000) which shall be paid into the general fund of the state.

(2) A person who violates this section for a second or subsequent violation shall be guilty of a Class A misdemeanor.

(c) It is a defense to prosecution under this section that the person was, at the time of the offense, complying with a contrary:

(1) Court order; or

(2) Law, regulation, or rule.