

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 716

By: Senator T. Garner

For An Act To Be Entitled

AN ACT TO BE KNOWN AS THE "ARKANSAS SOVEREIGNTY ACT OF 2021"; CONCERNING THE RIGHT TO BEAR ARMS IN THE STATE OF ARKANSAS; CONCERNING OTHER CONSTITUTIONAL RIGHTS; AND FOR OTHER PURPOSES.

Subtitle

TO BE KNOWN AS THE "ARKANSAS SOVEREIGNTY ACT OF 2021"; CONCERNING THE RIGHT TO BEAR ARMS IN THE STATE OF ARKANSAS; AND CONCERNING OTHER CONSTITUTIONAL RIGHTS.

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

SECTION 1. Arkansas Code Title 1 is amended to add an additional chapter to read as follows:

CHAPTER 6

ARKANSAS SOVEREIGNTY ACT OF 2021

1-6-101. Title.

This chapter shall be known and may be cited as the "Arkansas Sovereignty Act of 2021".

1-6-102. Legislative findings.

The General Assembly finds that:

(1) The State of Arkansas is firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic, and the General Assembly is duty bound to watch over and



oppose every infraction of those principles that constitute the basis of the United States because only a faithful observance of those principles can secure the nation's existence and the public happiness;

(2) Acting through the United States Constitution, the people of the several states created the United States Government to be their agent in the exercise of a few defined powers, while reserving to the state governments the power to legislate on matters that concern the lives, liberties, and properties of citizens in the ordinary course of affairs;

(3) The limitation of the United States Government's power is affirmed under the Tenth Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the United States Government, and all power not delegated to the United States Government in the United States Constitution is reserved to the states respectively, or to the people themselves;

(4) Whenever the United States Government assumes powers that the people did not grant it in the United States Constitution, its acts are unauthoritative, void, and of no force;

(5)(A) The several states of the United States are not united on the principle of unlimited submission to the United States Government.

(B) The United States Government created by the United States Constitution is not the exclusive or final judge of the extent of the powers granted to it by the United States Constitution, because that would have made the United States Government's discretion, and not the United States Constitution, the measure of those powers.

(C) To the contrary, as in all other cases of compacts among powers having no common judge, each party has an equal right to judge itself, as well of infractions as of the mode and measure of redress.

(D)(i) Although the several states have granted supremacy to laws and treaties made under the powers granted in the United States Constitution, such supremacy does not apply to various federal statutes, orders, rules, regulations, or other actions that restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of Arkansas.

(ii) Such statutes, orders, rules, regulations, and other actions exceed the powers granted to the United States Government

except to the extent that they are necessary and proper for the United States Government and regulation of the land and naval forces of the United States Armed Forces or for the organizing, arming, and disciplining of militia forces actively employed in the service of the United States Armed Forces;

(6) The people of the several states have given the United States Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes", but regulating commerce does not include the power to limit citizens' right to keep and bear arms in defense of their families, neighbors, persons, or property or to dictate what sort of arms and accessories law-abiding, mentally competent Arkansas citizens may buy, sell, exchange, or otherwise possess within the borders of this state;

(7)(A) The people of the several states have also given the United States Congress the power "to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States" and "to make all laws which shall be necessary and proper for carrying into execution ... the powers vested by this Constitution in the Government of the United States, or in any department or officer thereof".

(B)(i) These federal constitutional provisions merely identify the means by which the United States Government may execute its limited powers and ought not to be so construed as themselves to give unlimited powers because to do so would be to destroy the balance of power between the United States Government and the state governments.

(ii) The General Assembly denies any claim that the taxing and spending powers of the United States Congress can be used to diminish in any way the people's right to keep and bear arms; and

(8) The people of Arkansas have vested the General Assembly with the authority to regulate the manufacture, possession, exchange, and use of firearms within this state's borders, subject only to the limits imposed by the Second Amendment to the United States Constitution and Arkansas Constitution, Article 2, § 5.

1-6-103. Firearm rights.

(a) All acts, laws, orders, rules, and regulations of the United States Government, whether past, present, or future, that infringe on the

people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Arkansas Constitution, Article 2, § 5, are invalid in this state, shall not be recognized by this state, are specifically rejected by this state, and shall be considered null and void and of no effect in this state.

(b) Such federal acts, laws, orders, rules, and regulations that are null and void in this state under subsection (a) of this section include without limitation:

(1) The National Firearms Act, 26 U.S.C. § 5801 et seq., as it existed on April 23, 2021; and

(2) The Gun Control Act of 1968, 18 U.S.C. § 921 et seq., with the exception of the following sections as they existed on April 23, 2021:

(A) 18 U.S.C. § 922(g), (j), (k), and (o); and

(B) 18 U.S.C. § 924(e), (h), and (j);

(3) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services that could have a chilling effect on the purchase or ownership of those items by law-abiding citizens, except for an existing tax, levy, fee, or stamp imposed under 26 U.S.C. § 4181 from which revenues are authorized to be appropriated under the Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. § 669 et seq., and any future tax, levy, fee, or stamp imposed by congressional amendment of the Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. § 669 et seq.;

(4) Any registering or tracking of firearms, firearm accessories, or ammunition that could have a chilling effect on the purchase or ownership of those items by law-abiding citizens;

(5) Any registering or tracking of the owners of firearms, firearm accessories, or ammunition that could have a chilling effect on the purchase or ownership of those items by law-abiding citizens;

(6) Any act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by law-abiding citizens; and

(7) Any act ordering the confiscation of firearms, firearm accessories, or ammunition from law-abiding citizens.

(c) It is the duty of the courts and law enforcement agencies of this state to protect the rights of law-abiding citizens to keep and bear arms

within the borders of this state from the infringements described under subsection (b) of this section.

(d)(1) The following persons shall not enforce or assist federal agencies or officers in the enforcement of any federal statute, executive order, or federal agency directive that conflicts with Arkansas Constitution, Article 2, § 5, or any Arkansas law:

(A) A public officer or employee of this state;

(B) A law enforcement officer; or

(C) A representative, agent, or employee of a municipality, a county, or the state, acting under the color of law, with all the rights, grants, and assignments of a law enforcement officer in the state.

(2) The persons and prohibitions described under subdivision (d)(1) of this section include personnel, agents of the state or local government, including volunteers, the use of tax dollars, and persons having authority to enforce or attempt to enforce any of the infringements on the right to keep and bear arms described under subsection (b) of this section.

(3) The following sections of the Gun Control Act of 1968, 18 U.S.C. § 921 et seq., as they existed on April 23, 2021, do not conflict with Arkansas Constitution, Article 2, § 5, or any other state law:

(A) 18 U.S.C. § 922(g), (j), (k), and (o); and

(B) 18 U.S.C. § 924(e), (h), and (j).

(e)(1) A person described under subsection (d)(1) of this section who knowingly assists or provides support or information to federal agents or agencies in the enforcement of federal law, an executive order, or a federal agency directive that conflicts with Arkansas Constitution, Article 2, § 5, or other Arkansas law is upon conviction guilty of an unclassified misdemeanor.

(2) The penalty for violating this subsection is a fine of five hundred dollars (\$500) for each offense.

(f)(1) A supervisory officer or elected official who knowingly directs any law enforcement officer to assist a federal law enforcement agency in violating the rights of a person as described under subsection (d) of this section is upon conviction guilty of an unclassified misdemeanor.

(2) The penalty for violating this subsection is a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars

(\$1,000) for each offense.

(g) A person described under subsection (d) of this section who knowingly attempts to enforce any of the infringements on the right to keep and bear arms described under subsection (b) of this section forfeits all immunity otherwise provided him or her under the laws of this state.

(h) An Arkansas citizen who has been subject to an effort to enforce any of the infringements on the right to keep and bear arms described under subsection (b) of this section shall have a cause of action, including declaratory judgment and for monetary damages, against a person or entity attempting such enforcement.

1-6-104. Enumerated rights.

(a) All federal acts, laws, orders, rules, and regulations, whether past, present, or future, that infringe on the following enumerated rights found in the Arkansas Constitution are invalid in this state, shall not be recognized by this state, are specifically rejected by this state, and shall be considered null and void and of no effect in this state:

(1) The right to peacefully assemble as found in Arkansas Constitution, Article 2, § 4;

(2) The right to enjoy freedom of speech and of the press as found in Arkansas Constitution, Article 2, § 6;

(3) The right to remain free from self-incrimination and have a right to due process as found in Arkansas Constitution, Article 2, § 8;

(4) The right to be free from excessive bail, cruel and unusual punishment, and unreasonable detention as found in Arkansas Constitution, Article 2, § 9;

(5) The right to be free from unreasonable searches and seizures as found in Arkansas Constitution, Article 2, § 15;

(6) The right to be free from ex post facto laws as found in Arkansas Constitution, Article 2, § 17;

(7) The right not to be taken, imprisoned, disseized of his or her estate, freehold, liberties or privileges, outlawed, or in any manner destroyed, or deprived of his or her life, liberty or property, except by the judgment of his or her peers, or the law of the land as found in Arkansas Constitution, Article 2, § 21; and

(8) The right to worship as found in Arkansas Constitution,

Article 2, § 24.

(b) It is the duty of the courts and of the law enforcement agencies of this state to protect the rights of law-abiding citizens within the border of this state from infringement of any of the rights enumerated under this section and as found in Arkansas Constitution, Article 2.

(c)(1) The following persons shall not enforce or assist federal agencies or officers in the enforcement of any federal statute, executive order, or federal agency directive that conflicts with Arkansas Constitution, Article 2, § 4, or any Arkansas law:

(A) A public officer or employee of this state;

(B) A law enforcement officer; or

(C) A representative, agent, or employee of a municipality, a county, or the state, acting under the color of law, with all the rights, grants, and assignments of a law enforcement officer in the state.

(2) The persons and prohibitions described under subdivision (c)(1) of this section include personnel, agents of the state or local government, including volunteers, the use of tax dollars, and persons having authority to enforce or attempt to enforce any of the infringements on the rights described under subsection (a) of this section.

(d)(1) A person described under subsection (c) of this section who knowingly assists or provides support or information to federal agents or agencies in the enforcement of federal law, an executive order, or a federal agency directive that conflicts with the rights outlined under subsection (a) of this section or Arkansas law is upon conviction guilty of an unclassified misdemeanor.

(2) The penalty for violating this subsection is a fine of five hundred dollars (\$500) for each offense.

(e)(1) A supervisory officer or elected official who knowingly directs any law enforcement officer to assist a federal law enforcement agency in violating the rights described under subsection (a) of this section is upon conviction guilty of an unclassified misdemeanor.

(2) The penalty for violating the rights described under subsection (a) of this section is a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense.

(f) A person described under subsection (c) of this section who

knowingly attempts to enforce any of the infringements on the rights described under subsection (a) of this section forfeits any immunity otherwise provided him or her under the laws of this state.

(g) A person who is an official, agent, or employee of the United States Government who knowingly enforces or attempts to enforce any infringements under subsection (a) of this section upon conviction is guilty of a Class A misdemeanor.

(h) An Arkansas citizen who has been subject to an effort to enforce any of the infringements on the rights described under subsection (a) of this section shall have a cause of action, including declaratory judgment and for monetary damages, against a person or entity attempting such enforcement.