

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1435

5 By: Representative B. Smith
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

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

15 TO BE KNOWN AS THE "ARKANSAS SOVEREIGNTY
16 ACT OF 2021"; CONCERNING THE RIGHT TO
17 BEAR ARMS IN THE STATE OF ARKANSAS; AND
18 CONCERNING OTHER CONSTITUTIONAL RIGHTS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 1 is amended to add an additional
25 chapter to read as follows:

CHAPTER 6

ARKANSAS SOVEREIGNTY ACT OF 2021

1-6-101. Title.

29 This chapter shall be known and may be cited as the "Arkansas
30 Sovereignty Act of 2021".
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1-6-102. Legislative findings.

33 The General Assembly finds that:
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35 (1) The State of Arkansas is firmly resolved to support and
36 defend the United States Constitution against every aggression, either



1 foreign or domestic, and the General Assembly is duty bound to watch over and
2 oppose every infraction of those principles that constitute the basis of the
3 United States because only a faithful observance of those principles can
4 secure the nation's existence and the public happiness;

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

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

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

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

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

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

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

36 (ii) Such statutes, orders, rules, regulations, and

1 other actions exceed the powers granted to the United States Government
2 except to the extent that they are necessary and proper for the United States
3 Government and regulation of the land and naval forces of the United States
4 Armed Forces or for the organizing, arming, and disciplining of militia
5 forces actively employed in the service of the United States Armed Forces;

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

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

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

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

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

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35 1-6-103. Firearm rights.

36 (a) All acts, laws, orders, rules, and regulations of the United

1 States Government, whether past, present, or future, that infringe on the
2 people's right to keep and bear arms as guaranteed by the Second Amendment to
3 the United States Constitution and Arkansas Constitution, Article 2, § 5, are
4 invalid in this state, shall not be recognized by this state, are
5 specifically rejected by this state, and shall be considered null and void
6 and of no effect in this state.

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

10 (1) The National Firearms Act, 26 U.S.C. § 5801 et seq.;

11 (2) The Gun Control Act of 1968, 18 U.S.C. § 921 et seq.;

12 (3) Any tax, levy, fee, or stamp imposed on firearms, firearm
13 accessories, or ammunition not common to all other goods and services that
14 could have a chilling effect on the purchase or ownership of those items by
15 law-abiding citizens;

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

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

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

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

27 (c) It is the duty of the courts and law enforcement agencies of this
28 state to protect the rights of law-abiding citizens to keep and bear arms
29 within the borders of this state from the infringements described under
30 subsection (b) of this section.

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

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

36 (B) A law enforcement officer; or

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

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

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

16 (2) The penalty for violating this subsection includes the
17 following:

18 (A) If applicable, the person shall lose his or her law
19 enforcement certification for:

20 (i) Six (6) months for a first offense;

21 (ii) Twelve (12) months for a second offense; and

22 (iii) Life for a third offense;

23 (B) A fine of five hundred dollars (\$500) for each
24 offense; or

25 (C) Both a fine and loss of law enforcement certification.

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

30 (2) The penalty for violating this subsection includes the
31 following:

32 (A) If applicable, the person shall lose his or her law
33 enforcement certification for:

34 (i) Six (6) months for a first offense;

35 (ii) Twelve (12) months for a second offense; and

36 (iii) Life for a third offense; and

1 (B) A fine of not less than five hundred dollars (\$500)
2 nor more than one thousand dollars (\$1,000) for each offense.

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

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

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13 1-6-104. Enumerated rights.

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

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

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

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

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

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

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

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

1 (8) The right to worship as found in Arkansas Constitution,
2 Article 2, § 24.

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

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

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

12 (B) A law enforcement officer; or

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

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

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

28 (2) The penalty for violating this subsection includes the
29 following:

30 (A) If applicable, the person shall lose his or her law
31 enforcement certification for:

32 (i) Six (6) months for a first offense;

33 (ii) Twelve (12) months for a second offense; and

34 (iii) Life for a third offense;

35 (B) A fine of five hundred dollars (\$500) for each
36 offense; or

1 (C) Both a fine and loss of law enforcement certification.

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

6 (2) The penalty for violating the rights described under
7 subsection (a) of this section includes the following:

8 (A) If applicable, the person shall lose his or her law
9 enforcement certification for:

10 (i) Six (6) months for a first offense;

11 (ii) Twelve (12) months for a second offense; and

12 (iii) Life for a third offense; and

13 (B) A fine of not less than five hundred dollars (\$500)
14 nor more than one thousand dollars (\$1,000) for each offense.

15 (f) A person described under subsection (c) of this section who
16 knowingly attempts to enforce any of the infringements on the rights
17 described under subsection (a) of this section forfeits any immunity
18 otherwise provided him or her under the laws of this state.

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

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

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