

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

A Bill

SENATE BILL 717

5 By: Senator G. Stubblefield
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE FEDERAL REGULATION OF FIREARMS
9 WITHIN THE BORDERS OF THE STATE OF ARKANSAS; AND FOR
10 OTHER PURPOSES.
11

Subtitle

12 CONCERNING THE FEDERAL REGULATION OF
13 FIREARMS WITHIN THE BORDERS OF THE STATE
14 OF ARKANSAS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 1, Chapter 6, as enacted by SB298 of
22 the 2021 Regular Session of the General Assembly, is amended to read as
23 follows:
24

CHAPTER 6

ARKANSAS SOVEREIGNTY ACT OF 2021

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26
27
28 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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32 1-6-102. Legislative findings.

33 The General Assembly finds that:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33
 34 1-6-103. Firearm rights.

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

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

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

9 (1) The National Firearms Act, 26 U.S.C. § 5801 et seq., with
10 the exception of the following sections as they existed on April 23, 2021:

11 (A) 26 U.S.C. § 5841, only as it applies to 26 U.S.C. §
12 5845(a)(8) as defined in 26 U.S.C. § 5845(f); and

13 (B) 26 U.S.C. § 5861, only as it applies to 26 U.S.C. §
14 5845(a)(8) as defined in 26 U.S.C. § 5845(f) and 26 U.S.C. § 5871;

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

17 (A) 18 U.S.C. § 922(g)(1)-(3), (g)(5)(A) and (B), (g)(7),
18 (j), and (k); and

19 (B) 18 U.S.C. § 924(c), (e), (h), and (j);

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

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

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

35 (6) Any act forbidding the possession, ownership, or use or
36 transfer of any type of firearm, firearm accessory, or ammunition by law-

1 abiding citizens; and

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

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

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

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

13 (B) A law enforcement officer; or

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

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

23 (3) For the purposes of this section, the following federal laws
24 as they existed on April 23, 2021, do not conflict with Arkansas
25 Constitution, Article 2, § 5, or any Arkansas law:

26 (A) 18 U.S.C. § 922(g)(1)-(3), (g)(5)(A) and (B), (g)(7),
27 (j), and (k);

28 (B) 18 U.S.C. § 924(c), (e), (h), and (j);

29 (C) 26 U.S.C. § 5841, only as it applies to 26 U.S.C. §
30 5845(a)(8) as defined in 26 U.S.C. § 5845(f); and

31 (D) 26 U.S.C. § 5861, only as it applies to 26 U.S.C. §
32 5845(a)(8) as defined in 26 U.S.C. § 5845(f) and 26 U.S.C. § 5871.

33 ~~(e)(1) A person described under subsection (d)(1) of this section who~~
34 ~~knowingly assists or provides support or information to federal agents or~~
35 ~~agencies in the enforcement of federal law, an executive order, or a federal~~
36 ~~agency directive that conflicts with Arkansas Constitution, Article 2, § 5,~~

1 ~~or other Arkansas law is upon conviction guilty of an unclassified~~
2 ~~misdemeanor.~~

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

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

9 ~~(2) The penalty for violating this subsection is a fine of not~~
10 ~~less than five hundred dollars (\$500) nor more than one thousand dollars~~
11 ~~(\$1,000) for each offense.~~

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

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

21
22 1-6-104. Enumerated rights.

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

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

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

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

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

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

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

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

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

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

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

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

21 (B) A law enforcement officer; or

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

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

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

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

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

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

10 ~~(f) A person described under subsection (e) of this section who~~
11 ~~knowingly attempts to enforce any of the infringements on the rights~~
12 ~~described under subsection (a) of this section forfeits any immunity~~
13 ~~otherwise provided him or her under the laws of this state.~~

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

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

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