

1 HB157
2 208729-1
3 By Representatives Hanes, Sorrell, Holmes, Mooney, Whorton and
4 Pettus
5 RFD: Public Safety and Homeland Security
6 First Read: 02-FEB-21
7 PFD: 01/26/2021

1
2
3
4
5
6
7
8 SYNOPSIS: This bill would create the Second Amendment
9 Preservation Act to protect the right to keep and
10 bear arms.

11 Amendment 621 of the Constitution of Alabama
12 of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, prohibits a general
15 law whose purpose or effect would be to require a
16 new or increased expenditure of local funds from
17 becoming effective with regard to a local
18 governmental entity without enactment by a 2/3 vote
19 unless: it comes within one of a number of
20 specified exceptions; it is approved by the
21 affected entity; or the Legislature appropriates
22 funds, or provides a local source of revenue, to
23 the entity for the purpose.

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to firearms; to create the Second Amendment
10 Preservation Act to protect the right to keep and bear arms;
11 and in connection therewith would have as its purpose or
12 effect the requirement of a new or increased expenditure of
13 local funds within the meaning of Amendment 621 of the
14 Constitution of Alabama of 1901, now appearing as Section
15 111.05 of the Official Recompilation of the Constitution of
16 Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. (a) This act shall be known and may be
19 cited as the Second Amendment Preservation Act.

20 (b) The Legislature finds and declares that:

21 (1) The Legislature is firmly resolved to support
22 and defend the United States Constitution against every
23 aggression, either foreign or domestic, and is duty-bound to
24 watch over and oppose every infringement of those principles
25 which constitute the basis of the Union of the States, because
26 only a faithful observance of those principles can secure the
27 nation's existence and the public happiness.

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

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

15 (4) Whenever the federal government assumes powers
16 that the people did not grant to it in the Constitution, its
17 acts are without authority, void, and of no force.

18 (5) The several states of the United States of
19 America are not united on the principle of unlimited
20 submission to their federal government. The government created
21 by the compact among the states is not the exclusive or final
22 judge of the extent of the powers granted to it by the
23 Constitution because that would have made the federal
24 government's discretion, and not the Constitution, the measure
25 of those powers. To the contrary, as in all other cases of
26 compacts among powers having no common judge, each party has
27 an equal right to judge itself and decide its mode and measure

1 of redress. Although the several states have granted supremacy
2 to laws and treaties made pursuant to the powers granted in
3 the Constitution, that supremacy does not apply to various
4 federal statutes, orders, rules, regulations, or other actions
5 that restrict or prohibit the manufacture, ownership, and use
6 of firearms, firearm accessories, or ammunition exclusively
7 within the borders of Alabama. Those statutes, orders, rules,
8 regulations, and other actions exceed the powers granted to
9 the federal government, except to the extent they are
10 necessary and proper for the government and regulation of the
11 land and naval forces of the United States or for the
12 organizing, arming, and disciplining of militia forces
13 actively employed in the service of the United States Armed
14 Forces.

15 (6) The people of the several states have given
16 Congress the power "to regulate Commerce with foreign Nations,
17 and among the several States, and with the Indian Tribes," but
18 the regulation of commerce does not include the power to limit
19 the rights of citizens to keep and bear arms in defense of
20 their families, neighbors, persons, or property, or to dictate
21 what sort of arms and accessories law-abiding, mentally
22 competent Alabamians may buy, sell, exchange, or otherwise
23 possess within the borders of this state.

24 (7) The people of the several states have also given
25 Congress the power "To lay and collect Taxes, Duties, Imposts
26 and Excises, to pay the Debts and provide for the common
27 Defence and general Welfare of the United States" and "to make

1 all Laws which shall be necessary and proper for carrying into
2 Execution the foregoing Powers, and all other Powers vested by
3 this Constitution in the Government of the United States, or
4 any Department or Officer thereof." These constitutional
5 provisions merely identify the means by which the federal
6 government may execute its limited powers and ought not be
7 construed as to give unlimited powers, because to do so would
8 be to destroy the balance of power between the federal
9 government and the state governments. The Legislature denies
10 any claim that the taxing and spending powers of Congress can
11 be used to diminish in any way the people's right to keep and
12 bear arms.

13 (8) The people of Alabama have vested the
14 Legislature with the authority to regulate the manufacture,
15 possession, exchange, and use of firearms within this state's
16 borders, subject only to the limits imposed by the Second
17 Amendment to the United States Constitution and the
18 Constitution of Alabama of 1901.

19 (c) All federal acts, laws, orders, rules, and
20 regulations, whether past, present, or future, which infringe
21 on the people's right to keep and bear arms as guaranteed by
22 the Second Amendment to the United States Constitution shall
23 be invalid in this state, shall not be recognized by this
24 state, are specifically rejected by this state, and shall be
25 considered void and of no effect in this state.

1 (d) The federal acts, laws, orders, rules, and
2 regulations referenced in subsection (a) include, but are not
3 limited to, all of the following:

4 (1) The provisions of the federal Gun Control Act of
5 1934.

6 (2) The provisions of the federal Gun Control Act of
7 1968.

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

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

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

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

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

26 (e) It shall be the duty of the courts and law
27 enforcement agencies of this state to protect the rights of

1 law-abiding citizens to keep and bear arms from the
2 infringements included in subsection (d).

3 (f) No public officer or employee of this state
4 shall have any authority to enforce or attempt to enforce any
5 of the infringements on the right to keep and bear arms
6 included in subsection (d).

7 (g) Any official, agent, or employee of the United
8 States government who enforces or attempts to enforce any of
9 the infringements on the right to keep and bear arms included
10 in subsection (d) is guilty of a Class A misdemeanor.

11 (h) Any Alabama citizen who has been subject to an
12 effort to enforce any of the infringements on the right to
13 keep and bear arms included in subsection (b) shall have a
14 private cause of action for declaratory judgment and for
15 damages against any person or entity attempting that
16 enforcement.

17 Section 2. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 3. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

