

1 HB7
2 214324-1
3 By Representatives Hanes and Mooney
4 RFD: Public Safety and Homeland Security
5 First Read: 11-JAN-22
6 PFD: 06/28/2021

SYNOPSIS: This bill would create the Alabama Second Amendment Preservation Act to protect the right to keep and bear arms.

A BILL
TO BE ENTITLED
AN ACT

Relating to firearms; to create the Alabama Second Amendment Preservation Act to protect the right to keep and bear arms.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

(b) The Legislature finds and declares that:

(1) The Legislature is firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic, and is duty-bound to watch over and oppose every infringement of those principles which constitute the basis of the Union of the States, because

1 only a faithful observance of those principles can secure the
2 nation's existence and the public happiness.

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

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

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

20 (5) The several states of the United States of
21 America are not united on the principle of unlimited
22 submission to their federal government. The government created
23 by the compact among the states is not the exclusive or final
24 judge of the extent of the powers granted to it by the
25 Constitution because that would have made the federal
26 government's discretion, and not the Constitution, the measure
27 of those powers. To the contrary, as in all other cases of

1 compacts among powers having no common judge, each party has
2 an equal right to judge itself and decide its mode and measure
3 of redress. Although the several states have granted supremacy
4 to laws and treaties made pursuant to the powers granted in
5 the Constitution, that supremacy does not apply to various
6 federal statutes, orders, rules, regulations, or other actions
7 that restrict or prohibit the manufacture, ownership, and use
8 of firearms, firearm accessories, or ammunition exclusively
9 within the borders of Alabama. Those statutes, orders, rules,
10 regulations, and other actions exceed the powers granted to
11 the federal government, except to the extent they are
12 necessary and proper for the government and regulation of the
13 land and naval forces of the United States or for the
14 organizing, arming, and disciplining of militia forces
15 actively employed in the service of the United States Armed
16 Forces.

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

26 (7) The people of the several states have also given
27 Congress the power "To lay and collect Taxes, Duties, Imposts

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

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

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

1 (d) The federal acts, laws, orders, rules, and
2 regulations referenced in subsection (c) 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 (c).

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 (c).

7 (g) Any Alabama citizen who has been subject to an
8 effort to enforce any of the infringements on the right to
9 keep and bear arms included in this section shall have a
10 private cause of action for declaratory judgment and for
11 damages against any person or entity attempting that
12 enforcement.

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.