

1 HB14
2 214546-1
3 By Representatives Moore (P) and Lipscomb
4 RFD: Judiciary
5 First Read: 11-JAN-22
6 PFD: 09/01/2021

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8 SYNOPSIS: Under existing constitutional law, the
9 federal government may not require a state or its
10 officers to administer or enforce a federal
11 regulatory program.

12 This bill would prohibit the state and its
13 agencies and political subdivisions from
14 participating in the enforcement of any federal
15 act, law, order, rule, or regulation relating to
16 firearms, firearm accessories, or ammunition, and
17 would provide criminal penalties for a violation.

18 Under existing constitutional law, the
19 United States Congress is given the authority to
20 regulate interstate commerce.

21 This bill would provide that firearms,
22 firearm accessories, and ammunition that are
23 manufactured in this state and remain in this
24 state, and are therefore only engaged in intrastate
25 commerce, are not subject to federal law or
26 regulation, including registration, under the

1 authority of the United State Congress to regulate
2 interstate commerce.

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

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to firearms; to provide prohibitions on the
2 enforcement of federal laws relating to firearms and
3 accessories and ammunition thereof; to provide criminal
4 penalties for a violation; to provide that certain firearms,
5 firearm accessories, and ammunition that are manufactured in
6 this state are not subject to federal law or regulation; and
7 in connection therewith would have as its purpose or effect
8 the requirement of a new or increased expenditure of local
9 funds within the meaning of Amendment 621 of the Constitution
10 of Alabama of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. (a) The Legislature finds and declares
15 all of the following:

16 (1) The Second Amendment to the United States
17 Constitution protects an individual's right to "keep and bear
18 arms" and further provides that the right to keep and bear
19 arms may not be infringed.

20 (2) It is the intent of the Legislature to protect
21 Alabama employees, including law enforcement officers, from
22 being directed, through federal executive orders, agency
23 orders, statutes, laws, rules, or regulations that violate
24 their oath of office and individual rights affirmed under the
25 Second Amendment of the United States Constitution and Section
26 26 of the Constitution of Alabama of 1901.

1 (3) Pursuant to and in furtherance of the principles
2 of federalism enshrined in the United States Constitution, the
3 federal government may not commandeer this state's officers,
4 agents, or employees to participate in the enforcement or
5 facilitation of any federal program not expressly required by
6 the United States Constitution.

7 (4) The right to be free from the commandeering hand
8 of the federal government has been most notably recognized by
9 the United States Supreme Court in *Printz v. United States*,
10 521 U.S. 898 (1997), when the Court held: "The Federal
11 Government may neither issue directives requiring the States
12 to address particular problems, nor command the States'
13 officers, or those of their political subdivisions, to
14 administer or enforce a federal regulatory program."

15 (5) The anti-commandeering principles recognized by
16 the U.S. Supreme Court in *Printz* are predicated upon the
17 advice of James Madison, who, in *The Federalist* No. 46, argued
18 for a "refusal to cooperate with officers of the Union" when
19 faced with unconstitutional federal measures or
20 constitutional, but unpopular, federal measures.

21 (b) (1) Notwithstanding any provision of law to the
22 contrary, no public funds of this state or any political
23 subdivision of this state nor any property of this state or
24 any political subdivision of this state may be allocated for
25 the implementation, regulation, or enforcement of any
26 executive order or directive issued by the President of the
27 United States, or of any act of the United States Congress,

1 that becomes effective after January 1, 2022, that regulates
2 the ownership, use, or possession of firearms, ammunition, or
3 firearm accessories.

4 (2) Notwithstanding any provision of law to the
5 contrary, no appointed or elected official, officer, employee,
6 or agent of the state, or any political subdivision of the
7 state, when acting in an official capacity, shall implement,
8 administer, or enforce an executive order or directive issued
9 by the President of the United States, or any act of the
10 United States Congress, that becomes effective after January
11 1, 2022, that regulates the ownership, use, or possession of
12 firearms, ammunition, or firearm accessories.

13 (c) (1) Any appointed or elected official, officer,
14 employee, or agent of the state, or any political subdivision
15 of the state, who knowingly violates this section, on a first
16 violation, shall be guilty of a Class C misdemeanor and shall
17 be fined not less than five hundred dollars (\$500) or more
18 than five thousand dollars (\$5,000).

19 (2) An appointed or elected official, officer,
20 employee, or agent of the state, or any political subdivision
21 of the state, who knowingly violates this section, on a second
22 or subsequent violation, shall be guilty of a Class B
23 misdemeanor and shall be fined not less than one thousand
24 dollars (\$1,000) or more than seven thousand dollars (\$7,000).

25 Section 2. (a) (1) Upon the adoption of a rule,
26 order, ordinance, resolution, or other official policy by a
27 political subdivision of the state which intentionally

1 requires actions that violate Section 1, a resident of this
2 state may file a complaint with the Attorney General. The
3 complaint shall include evidence supporting an allegation that
4 the political subdivision has adopted a rule, order,
5 ordinance, resolution, or policy under which the entity
6 enforces a federal law in violation of Section 1.

7 (2) If the Attorney General determines that a
8 complaint filed under subdivision (1) is valid, the Attorney
9 General may petition the court to compel compliance with this
10 act. The petition shall be filed in the circuit court of the
11 county in which the principal office of the political
12 subdivision is located.

13 (3) Upon a finding that political subdivision is in
14 violation of Section 1, the court shall award the Attorney
15 General reasonable expenses incurred in obtaining relief under
16 this section, including court costs, reasonable attorney's
17 fees, investigative costs, witness fees, and deposition costs.

18 (b) Following the year in which a final judicial
19 determination in an action brought under this section is made
20 that the political subdivision has intentionally required
21 actions that violate Section 1, all state grant funds for the
22 political subdivision shall be denied for the fiscal year. The
23 state grant funds shall continue to be denied for each
24 subsequent fiscal year unless and until the political
25 subdivision is in full compliance with Section 1.

26 Section 3. (a) The Legislature finds and declares
27 all of the following:

1 (1) The Tenth Amendment to the United States
2 Constitution guarantees to the states and their people all
3 powers not granted to the federal government elsewhere in the
4 United States Constitution and reserves to the State of
5 Alabama and its people certain powers as they were understood
6 at the time that Alabama was admitted to statehood in 1819,
7 and the guaranty of these powers is a matter of contract
8 between the State of Alabama and its people and the United
9 States as of the time that the compact with the United States
10 was agreed upon and adopted by Alabama and the United States
11 in 1819.

12 (2) The Ninth Amendment to the United States
13 Constitution guarantees to the people rights not granted in
14 the United States Constitution and reserves to the people of
15 Alabama certain rights as they were understood at the time
16 Alabama was admitted into statehood in 1819, and the guaranty
17 of these rights is a matter of contract between the State of
18 Alabama and its people and the United States as of the time
19 that the compact with the United States was agreed upon and
20 adopted by Alabama and the United States in 1819.

21 (3) The power to regulate intrastate commerce is
22 vested in the several states under the Ninth and Tenth
23 Amendments to the United States Constitution.

24 (4) The Second Amendment to the United States
25 Constitution reserves to the people the right to keep and bear
26 arms as that right was understood at the time that Alabama was
27 admitted into statehood in 1819, and the guaranty of that

1 right is a matter of contract between the State of Alabama and
2 its people and the United States as of the time that the
3 compact with the United States was agreed upon and adopted by
4 Alabama and the United States in 1819.

5 (b) As used in this section, the following terms
6 shall have the following meanings:

7 (1) FIREARM ACCESSORY. An item that is used in
8 conjunction with or mounted onto a firearm, but is not
9 essential to the basic function of the firearm. The term
10 includes a telescopic or laser sight, magazine, flash or sound
11 suppressor, folding or aftermarket stock and grip,
12 speedloader, ammunition carrier, and light for target
13 illumination.

14 (2) GENERIC AND INSIGNIFICANT PART. An item that has
15 manufacturing or consumer product applications other than
16 inclusion in a firearm, a firearm accessory, or ammunition.
17 The term includes a spring, screw, nut, and pin.

18 (3) MANUFACTURED IN THIS STATE. An item that is
19 manufactured in this state from basic materials and without
20 the inclusion of any part imported from another state other
21 than a generic and insignificant part. Notwithstanding the
22 foregoing, a firearm is manufactured in this state if it is
23 manufactured as described in the preceding sentence without
24 regard to whether a firearm accessory or ammunition imported
25 into this state from another state is attached to or used in
26 conjunction with it.

1 (4) MANUFACTURING. The term includes forging,
2 casting, machining, or any other process used for working a
3 material.

4 (c) Subject to subsection (e), a firearm, a firearm
5 accessory, or ammunition that is commercially or privately
6 manufactured in Alabama, that is sold in Alabama, and that
7 remains within the borders of Alabama is not subject to
8 federal law or regulation, including registration, under the
9 authority of the United State Congress to regulate interstate
10 commerce, as the item has not traveled in interstate commerce.

11 (d) (1) This section applies to firearms, ammunition,
12 or firearm accessories that are manufactured in Alabama from
13 basic materials and that can be manufactured without the
14 inclusion of any significant parts imported from another
15 state.

16 (2) Generic and insignificant parts that have other
17 manufacturing or consumer product applications are not
18 firearms, ammunition, or firearm accessories, and their
19 importation into Alabama and incorporation into a firearm,
20 ammunition, or a firearm accessory manufactured in Alabama
21 does not subject the firearm, ammunition, or firearm accessory
22 to federal regulation.

23 (3) A basic material from which a firearm, a firearm
24 accessory, or ammunition is manufactured in this state,
25 including unmachined steel and unshaped wood, is not a
26 firearm, a firearm accessory, or ammunition and is not subject
27 to federal regulation under the authority of the United States

1 Congress to regulate interstate commerce as if it actually
2 were a firearm, a firearm accessory, or ammunition.

3 (e) A firearm manufactured in this state is exempt
4 from federal law or regulation under subsection (c) only if
5 the firearm has the words "Made in Alabama" clearly stamped on
6 a central metallic part of the firearm, such as the receiver
7 or frame.

8 (f) (1) The Attorney General shall defend a resident
9 of this state whom the federal government attempts to
10 prosecute, claiming the power to regulate interstate commerce,
11 for a violation of a federal law or regulation concerning the
12 manufacture, sale, transfer, or possession of firearms,
13 ammunition, or firearm accessories manufactured and retained
14 in this state.

15 (2) Upon receipt by the Attorney General of written
16 notice from a resident of this state that the resident intends
17 to manufacture a firearm or firearm accessory to which this
18 section applies pursuant to subsection (d), the Attorney
19 General shall seek a declaratory judgment from a federal
20 district court in this state that this section is consistent
21 with the United State Constitution.

22 (g) This section does not apply to any of the
23 following:

24 (1) A firearm that cannot be carried and used by one
25 person.

1 (2) A firearm that has a bore diameter greater than
2 1.5 inches and that uses smokeless powder and not black powder
3 as a propellant.

4 (3) Ammunition with a projectile that explodes using
5 an explosion of chemical energy after the projectile leaves
6 the firearm.

7 (4) A firearm that discharges two or more
8 projectiles with one activation of the trigger or other firing
9 device.

10 Section 4. (a) The following federal acts, laws,
11 executive orders, administrative orders, court orders, rules,
12 and regulations shall be considered infringements on the
13 people's right to keep and bear arms, as guaranteed by the
14 Second Amendment to the United States Constitution, within the
15 borders of this state, including, but not limited to, all of
16 the following:

17 (1) Any tax, levy, fee, or stamp imposed on
18 firearms, ammunition, or firearm accessories not common to all
19 other goods and services that might reasonably be expected to
20 create a chilling effect on the purchase or ownership of those
21 items by law abiding residents of the state.

22 (2) Any registration or tracking of firearms,
23 ammunition, or firearm accessories that might reasonably be
24 expected to create a chilling effect on the purchase or
25 ownership of those items by law abiding residents of the
26 state.

1 (3) Any registration or tracking of the owners of
2 firearms, ammunition, or firearm accessories that might
3 reasonably be expected to create a chilling effect on the
4 purchase or ownership of those items by law abiding residents
5 of the state.

6 (4) Any act forbidding the possession, ownership,
7 use, or transfer of a firearm, ammunition, or firearm
8 accessory by law abiding residents of the state.

9 (5) Any act ordering the confiscation of firearms,
10 ammunition, or firearm accessories from law abiding residents
11 of the state.

12 (b) A federal act, law, executive order,
13 administrative order, court order, rule, or regulation that
14 infringes on a person's right to keep and bear arms as
15 provided under subsection (a) shall be void and of no effect
16 in this state.

17 (c) As used in this section, the term "law abiding
18 residents of the state" includes those individuals not
19 otherwise precluded under state law from possessing a firearm.

20 Section 5. The provisions of this act are severable
21 and if any provision of this act or the application of such
22 provision to any person or circumstance is declared invalid
23 for any reason, such declaration shall not affect the validity
24 of the remaining portions of this act.

25 Section 6. 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.

