

HOUSE BILL No. 2803

By Committee on Federal and State Affairs

Requested by Representative Houser

2-15

1 AN ACT concerning firearms; creating the Kansas gun rights preservation
2 act; prohibiting the commandeering of state resources to enforce federal
3 gun control against law-abiding citizens; providing civil penalties and a
4 cause of action for violations of the act.
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. The provisions of sections 1 through 8, and amendments
8 thereto, shall be known and may be cited as the Kansas gun rights
9 preservation act.

10 Sec. 2. (a) Notwithstanding any law, regulation, rule or order to the
11 contrary, no agency of this state, political subdivision of this state or
12 employee of any such agency or political subdivision acting in such
13 employee's official capacity shall:

14 (1) Knowingly and willingly participate in any way in the
15 enforcement of any federal act, law, executive order, administrative order,
16 rule or regulation regarding a firearm, firearm accessory or ammunition
17 against a law-abiding citizen.

18 (2) Utilize any assets, state funds or funds allocated by the state to
19 local entities on or after the effective date of this act, in whole or in part, to
20 engage in any activity that aids a federal agency, federal agent or
21 corporation providing services to the federal government in the
22 enforcement or any investigation pursuant to the enforcement of any
23 federal act, law, executive order, administrative order, rule or regulation
24 regarding a firearm, firearm accessory or ammunition against a law-
25 abiding citizen.

26 Sec. 3. It shall not be a violation of this act:

27 (a) To provide material aid and support to federal law enforcement
28 agencies that are in pursuit of a suspect when there is a demonstrable
29 criminal nexus with another foreign jurisdiction and such suspect is either
30 not a citizen of this state or is not present in this state;

31 (b) to provide material aid and support to any United States attorney
32 or assistant United States attorney in the prosecution of felony crimes
33 substantially similar to any crime described in article 57, 58 or 63 of
34 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, that
35 includes the possession of a firearm or other weapon if the charges are not

1 solely for the possession or use of such firearm or weapon; and

2 (c) for courts to carry out their duties as described in articles 1
3 through 33 of chapter 20 of the Kansas Statutes Annotated, and
4 amendments thereto.

5 Sec. 4. Nothing in sections 2 and 3, and amendments thereto, shall be
6 construed to prohibit any law enforcement agency from accepting aid from
7 any federal law enforcement agency in an effort to enforce the laws of this
8 state made in pursuance to the constitution of the United States and the
9 constitution of the state of Kansas.

10 Sec. 5. (a) Any law enforcement agency or political subdivision of
11 this state that employs a law enforcement officer who violates this act
12 while acting under color of any federal law shall be liable to such
13 individual for any damages resulting from such violation and subject to a
14 civil penalty of \$50,000 for each occurrence. Each violation with respect
15 to a firearm, firearm accessory or container of ammunition shall constitute
16 a separate occurrence.

17 (b) Any law enforcement agency or political subdivision of this state
18 that employs an individual, acting or who previously acted as an official,
19 agent, employee or deputy of the government of the United States, or
20 otherwise acted under color of federal law after the effective date of this
21 section, who enforced or attempted to enforce or who gave material aid
22 and support to the efforts of another individual or agency of the
23 government of the United States who enforced or attempted to enforce any
24 law, executive order, administrative order, rule or regulation against a law-
25 abiding citizen in violation of section 2, and amendments thereto, shall be
26 subject to a civil penalty of \$50,000 for each such employee.

27 Sec. 6. (a) Any law-abiding citizen aggrieved by a violation of this act
28 may bring an action in a court of competent jurisdiction for injunctive and
29 other relief.

30 (b) Any law-abiding citizen residing in or conducting business in this
31 state who believes that an individual has violated this act may file an
32 action in a court of competent jurisdiction for injunctive relief.

33 (c) Upon the filing of a motion for a temporary or permanent
34 injunction in any action brought pursuant to this section, the court shall
35 hold a hearing on such motion within 30 days of service of such motion on
36 the defendant.

37 (d) The court may award reasonable attorney fees and court costs to
38 the prevailing party in any action filed pursuant to this act unless such
39 prevailing party is the state of Kansas or any political subdivision thereof.

40 (e) Sovereign immunity shall not be an affirmative defense in any
41 action filed pursuant to this act.

42 Sec. 7. As used in sections 1 through 7, and amendments thereto:

43 (a) "Ammunition" includes cartridge cases, primers, bullets or

1 propellant powder designed for use in any firearm.

2 (b) "Firearm" means any weapon designed or having the capacity to
3 propel a projectile by force of an explosion or combustion.

4 (c) "Firearm accessory" means items that are used in conjunction with
5 or mounted upon a firearm but are not essential to the basic function of a
6 firearm, including, but not limited to, telescopic or laser sights, magazines,
7 flash or sound suppressors, collapsible or adjustable stocks and grips,
8 pistol grips, pistol braces, standard or reset triggers, thumbhole stocks,
9 speed loaders, ammunition carriers and lights for target illumination.

10 (d) "Law-abiding citizen" means an individual who is not otherwise
11 precluded under state law from possessing a firearm. "Law-abiding
12 citizen" shall not be construed to include any individual who is not
13 lawfully present in the United States or the state of Kansas.

14 Sec. 8. If any provision of the Kansas gun rights preservation act or
15 the application thereof to any person or circumstances is held invalid, such
16 invalidity shall not affect other provisions or applications of such act that
17 can be given effect without the invalid provision or application and to this
18 end the provisions of the Kansas gun rights preservation act are hereby
19 declared to be severable.

20 Sec. 9. This act shall take effect and be in force from and after its
21 publication in the Kansas register.