

House File 861

H-1468

1 Amend House File 861 as follows:

2 1. Page 21, after line 30 by inserting:

3 <DIVISION ____

4 SECOND AMENDMENT PRESERVATION ACT

5 Sec. ____ . NEW SECTION. 724A.1 Short title.

6 This chapter may be cited and referred to as the "*Second*
7 *Amendment Preservation Act*".

8 Sec. ____ . NEW SECTION. 724A.2 Definition.

9 As used in this chapter, "*law-abiding citizen*" means a person
10 who is not otherwise precluded under state law from possessing
11 a firearm and shall not be construed to include anyone who is
12 not legally present in the United States or the state of Iowa.

13 Sec. ____ . NEW SECTION. 724A.3 Legislative findings.

14 The general assembly finds and declares the following:

15 1. The general assembly is firmly resolved to support and
16 defend the Constitution of the United States against every
17 aggression, whether foreign or domestic, and is duty-bound to
18 oppose every infraction of those principles that constitute the
19 basis of the United States because only a faithful observance
20 of those principles can secure the nation's existence and the
21 public happiness.

22 2. Acting through the Constitution of the United States, the
23 people of the several states created the federal government to
24 be their agent in the exercise of a few defined powers, while
25 reserving for the state governments the power to legislate on
26 matters concerning the lives, liberties, and properties of
27 citizens in the ordinary course of affairs.

28 3. The limitation of the federal government's power is
29 affirmed under the tenth amendment to the Constitution of the
30 United States, which defines the total scope of federal power
31 as being that which has been delegated by the people of the
32 several states to the federal government, and all power not
33 delegated to the federal government in the Constitution of the
34 United States is reserved to the states respectively or to the
35 people themselves.

1 4. If the federal government assumes powers that the people
2 did not grant it in the Constitution of the United States, its
3 acts are unauthoritative, void, and of no force.

4 5. The several states of the United States respect
5 the proper role of the federal government but reject the
6 proposition that such respect requires unlimited submission.
7 If the government, created by a compact among the states,
8 was the exclusive or final judge of the extent of the powers
9 granted to it by the states through the Constitution of the
10 United States, the federal government's discretion, and not
11 the Constitution of the United States, would necessarily
12 become the measure of those powers. To the contrary, as in
13 all other cases of compacts among powers having no common
14 judge, each party has an equal right to judge for itself as to
15 whether infractions of the compact have occurred, as well as
16 to determine the mode and measure of redress. Although the
17 several states have granted supremacy to laws and treaties made
18 under the powers granted in the Constitution of the United
19 States, such supremacy does not extend to various federal
20 statutes, executive orders, administrative orders, court
21 orders, rules, regulations, or other actions that collect data
22 or restrict or prohibit the manufacture, ownership, and use
23 of firearms, firearm accessories, or ammunition exclusively
24 within the borders of Iowa. Such statutes, executive orders,
25 administrative orders, court orders, rules, regulations,
26 and other actions exceed the powers granted to the federal
27 government except to the extent they are necessary and proper
28 for governing and regulating the United States armed forces
29 or for organizing, arming, and disciplining militia forces
30 actively employed in the service of the United States armed
31 forces.

32 6. The people of the several states have given the United
33 States Congress the power "to regulate commerce with foreign
34 nations, and among the several states", but "regulating
35 commerce" does not include the power to limit citizens' right

1 to keep and bear arms in defense of their families, neighbors,
2 persons, or property, or to dictate what sort of arms and
3 accessories law-abiding Iowans may buy, sell, exchange, or
4 otherwise possess within the borders of this state.

5 7. The people of the several states have also granted the
6 United States Congress the power "to lay and collect taxes,
7 duties, imposts and excises, to pay the debts and provide for
8 the common defense and general welfare of the United States"
9 and "to make all laws which shall be necessary and proper for
10 carrying into execution" the powers vested by the Constitution
11 of the United States "in the government of the United States,
12 or in any department or officer thereof". These constitutional
13 provisions merely identify the means by which the federal
14 government may execute its limited powers and shall not be
15 construed to grant unlimited power because to do so would be
16 to destroy the carefully constructed equilibrium between the
17 federal and state governments. Consequently, the general
18 assembly rejects any claim that the taxing and spending powers
19 of the United States Congress may be used to diminish in any
20 way the right of the people to keep and bear arms.

21 8. The people of Iowa have vested the general assembly
22 with the authority to regulate the manufacture, possession,
23 exchange, and use of firearms firearm accessories, or
24 ammunition within the borders of this state, subject only to
25 the limits imposed by the second amendment to the Constitution
26 of the United States and the Constitution of the State of Iowa.

27 9. The general assembly of the state of Iowa strongly
28 promotes responsible firearm ownership, including parental
29 supervision of minors in the proper use, storage, and ownership
30 of all firearms; the prompt reporting of stolen firearms; and
31 the proper enforcement of all state firearm laws. The general
32 assembly of the state of Iowa hereby condemns any unlawful
33 transfer of firearms and the use of any firearm in any criminal
34 or unlawful activity.

35 Sec. ____ . NEW SECTION. 724A.4 Federal infringements on the

1 right to keep and bear arms.

2 Federal infringements on the people's right to keep and bear
3 arms, as guaranteed by the second amendment to the Constitution
4 of the United States, within the borders of this state include
5 but shall not be limited to the following federal acts, laws,
6 executive orders, administrative orders, court orders, rules,
7 and regulations:

8 1. Any tax, levy, fee, or stamp imposed on firearms, firearm
9 accessories, or ammunition not common to all other goods and
10 services and that might reasonably be expected to create a
11 chilling effect on the purchase or ownership of firearms,
12 firearm accessories, or ammunition by law-abiding citizens.

13 2. Any registering or tracking of firearms, firearm
14 accessories, or ammunition that might reasonably be expected
15 to create a chilling effect on the purchase or ownership of
16 firearms, firearm accessories, or ammunition by law-abiding
17 citizens.

18 3. Any registering or tracking of the owners of firearms,
19 firearm accessories, or ammunition that might reasonably
20 be expected to create a chilling effect on the purchase or
21 ownership of firearms, firearm accessories, or ammunition by
22 law-abiding citizens.

23 4. Any act forbidding the possession, ownership, use, or
24 transfer of firearms, firearm accessories, or ammunition by
25 law-abiding citizens.

26 5. Any act ordering the confiscation of firearms, firearm
27 accessories, or ammunition from law-abiding citizens.

28 Sec. ____ . NEW SECTION. 724A.5 Federal infringement void.

29 All federal acts, laws, executive orders, administrative
30 orders, court orders, rules, and regulations, regardless if
31 enacted before or after the provisions this chapter, that
32 infringe on the people's right to keep and bear arms as
33 guaranteed by the second amendment to the Constitution of the
34 United States shall be invalid in this state, shall not be
35 recognized by this state, shall be specifically rejected by

1 this state, and shall have no effect in this state.

2 Sec. _____. NEW SECTION. **724A.6 Protection of right to keep**
3 **and bear arms.**

4 It shall be the duty of the courts and law enforcement
5 agencies of this state to protect the rights of law-abiding
6 citizens to keep and bear arms within the borders of this state
7 and to protect these rights from the infringements described
8 in section 724A.4.

9 Sec. _____. NEW SECTION. **724A.7 Enforcement of infringement**
10 **of right to keep and bear arms prohibited.**

11 No person, including any public officer or employee of this
12 state or any political subdivision of this state, shall have
13 the authority to enforce or attempt to enforce any federal
14 acts, laws, executive orders, administrative orders, court
15 orders, rules, regulations, statutes, or ordinances infringing
16 on the right to keep and bear arms as described in section
17 724A.4.

18 Sec. _____. NEW SECTION. **724A.8 Liability for violation —**
19 **attorney fees.**

20 1. Any entity that acts knowingly to violate the provisions
21 of this chapter while acting under color of any state or
22 federal law, including any political subdivision or law
23 enforcement agency that employs a law enforcement officer who
24 acts knowingly to violate the provisions of this chapter while
25 acting under color of any state or federal law, shall be liable
26 to the injured party in an action at law, suit in equity, or
27 other proper proceeding for redress.

28 2. In such actions, the court may award the prevailing
29 party, other than the state or any political subdivision of the
30 state, reasonable attorney fees and costs.

31 3. Sovereign, official, or qualified immunity shall not be
32 an affirmative defense in actions pursued under this section.

33 Sec. _____. NEW SECTION. **724A.9 Actions for violations.**

34 1. Any person residing or conducting business in a
35 jurisdiction who believes that a law enforcement officer or

1 supervisor of law enforcement officers of such jurisdiction has
2 taken action that violates this chapter shall have standing
3 to pursue an action against the jurisdiction that employs the
4 officer or supervisor for declaratory judgment in the district
5 court of the county in which the action allegedly occurred, or
6 in the district court of Polk county.

7 2. If a court determines that a law enforcement officer or
8 supervisor of law enforcement officers has taken any action
9 that violates this chapter, the jurisdiction that employs
10 the law enforcement officer or supervisor of law enforcement
11 officers found to have violated this chapter shall be required
12 to pay court costs, attorney fees, and any other damages the
13 court finds necessary associated with the declaratory judgment
14 action that resulted in the finding of ineligibility.

15 3. Nothing in this section shall preclude a person's right
16 of appeal or remediation.>

17 2. Title page, line 1, after <system> by inserting <, and
18 creating the second amendment preservation Act>

19 3. By renumbering as necessary.

SHIPLEY of Van Buren