

H-8397

1 Amend House File 2589 as follows:

2 1. Page 7, after line 3 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 general assembly finds that the federal excise tax
22 rate on arms and ammunition in effect prior to January 1,
23 2022, which funds programs under the Act of Congress described
24 in section 456A.27, does not have a chilling effect on the
25 purchase or ownership of such arms and ammunition.

26 9. The people of Iowa have vested the general assembly
27 with the authority to regulate the manufacture, possession,
28 exchange, and use of firearms firearm accessories, or
29 ammunition within the borders of this state, subject only to
30 the limits imposed by the second amendment to the Constitution
31 of the United States and the Constitution of the State of Iowa.

32 10. The general assembly of the state of Iowa strongly
33 promotes responsible firearm ownership, including parental
34 supervision of minors in the proper use, storage, and ownership
35 of all firearms; the prompt reporting of stolen firearms; and

1 the proper enforcement of all state firearm laws. The general
2 assembly of the state of Iowa hereby condemns any unlawful
3 transfer of firearms and the use of any firearm in any criminal
4 or unlawful activity.

5 Sec. ____ . NEW SECTION. **724A.4 Federal infringements on the**
6 **right to keep and bear arms.**

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

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

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

23 3. Any registering or tracking of the owners of firearms,
24 firearm accessories, or ammunition that might reasonably
25 be expected to create a chilling effect on the purchase or
26 ownership of firearms, firearm accessories, or ammunition by
27 law-abiding citizens.

28 4. Any act forbidding the possession, ownership, use, or
29 transfer of firearms, firearm accessories, or ammunition by
30 law-abiding citizens.

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

33 Sec. ____ . NEW SECTION. **724A.5 Federal infringement void.**

34 All federal acts, laws, executive orders, administrative
35 orders, court orders, rules, and regulations, regardless if

1 enacted before or after the provisions this chapter, that
2 infringe on the people's right to keep and bear arms as
3 guaranteed by the second amendment to the Constitution of the
4 United States shall be invalid in this state, shall not be
5 recognized by this state, shall be specifically rejected by
6 this state, and shall have no effect in this state.

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

9 It shall be the duty of the courts and law enforcement
10 agencies of this state to protect the rights of law-abiding
11 citizens to keep and bear arms within the borders of this state
12 and to protect these rights from the infringements described
13 in section 724A.4.

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

16 No person, including any public officer or employee of this
17 state or any political subdivision of this state, shall have
18 the authority to enforce or attempt to enforce any federal
19 acts, laws, executive orders, administrative orders, court
20 orders, rules, regulations, statutes, or ordinances infringing
21 on the right to keep and bear arms as described in section
22 724A.4. Nothing in this chapter shall be construed to prohibit
23 Iowa officials from accepting aid from federal officials in an
24 effort to enforce Iowa laws.

25 Sec. _____. NEW SECTION. **724A.8 Liability for violation —
26 actions for violations — attorney fees.**

27 1. *a.* Any political subdivision or law enforcement agency
28 that employs a law enforcement officer who acts knowingly to
29 violate the provisions of this chapter while acting under color
30 of any state or federal law shall be liable to the injured
31 party in an action at law, suit in equity, or other proper
32 proceeding for redress, and subject to a civil penalty of fifty
33 thousand dollars per violation.

34 *b.* Any person injured under this subsection shall have
35 standing to pursue an action for injunctive relief in the

1 district court of the county in which the action allegedly
2 occurred or in the district court of Polk county. The court
3 shall hold a hearing on the motion for a temporary restraining
4 order or a preliminary injunction within thirty days of service
5 of the petition.

6 2. Any political subdivision or law enforcement agency that
7 knowingly employs an individual acting or who previously acted
8 as an official, agent, employee, or deputy of the government
9 of the United States, or otherwise acted under the color of
10 federal law within the borders of this state, who has knowingly
11 enforced or attempted to enforce any of the infringements
12 identified in section 724A.4, or has knowingly given material
13 aid and support to the efforts of another who enforces or
14 attempts to enforce any of the infringements identified in
15 section 724A.4, shall be subject to a civil penalty of fifty
16 thousand dollars per such employee hired by the political
17 subdivision or law enforcement agency. Any person residing
18 or conducting business in a jurisdiction who believes that an
19 individual has taken action in that jurisdiction that would
20 violate the provisions of this subsection shall have standing
21 to pursue an action for injunctive relief in the district court
22 of the county in which the action allegedly occurred or in
23 the district court of Polk county. The court shall hold a
24 hearing on the motion for a temporary restraining order or a
25 preliminary injunction within thirty days of service of the
26 petition.

27 3. In actions under this section, the court may award
28 the prevailing party, other than the state or any political
29 subdivision of the state, reasonable attorney fees and costs.

30 4. Sovereign immunity shall not be an affirmative defense in
31 any action pursued under this section.

32 Sec. ____ . NEW SECTION. 724A.9 When action is not a
33 violation.

34 1. A person does not violate the provisions of this chapter
35 when the person provides material aid to federal officers

1 who are in pursuit of a suspect when there is a demonstrable
2 criminal nexus with another state or country and such suspect
3 is either not a citizen of this state or is not present in this
4 state.

5 2. A person does not violate the provisions of this chapter
6 when the person provides material aid to federal prosecutors
7 for felony violations involving controlled substances or
8 violations against another person when such prosecution
9 includes weapons violations substantially similar to the laws
10 of this state so long as such weapons violations are merely
11 ancillary to such prosecution.

12 Sec. ____ . EFFECTIVE DATE. This division of this Act, being
13 deemed of immediate importance, takes effect upon enactment.>

14 2. By renumbering as necessary.

SHIPLEY of Van Buren