

House File 518 - Introduced

HOUSE FILE 518

BY SHIPLEY, JENEARY, JACOBSEN,
STONE, and KAUFMANN

A BILL FOR

- 1 An Act creating the second amendment preservation Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 724A.1 Short title.

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

4 Sec. 2. NEW SECTION. 724A.2 Definition.

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

9 Sec. 3. NEW SECTION. 724A.3 Legislative findings.

10 The general assembly finds and declares the following:

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

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

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

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

35 5. The several states of the United States respect

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

28 6. The people of the several states have given the United
29 States Congress the power "to regulate commerce with foreign
30 nations, and among the several states", but "regulating
31 commerce" does not include the power to limit citizens' right
32 to keep and bear arms in defense of their families, neighbors,
33 persons, or property, or to dictate what sort of arms and
34 accessories law-abiding Iowans may buy, sell, exchange, or
35 otherwise possess within the borders of this state.

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

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

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

31 **Sec. 4. NEW SECTION. 724A.4 Federal infringements on the**
32 **right to keep and bear arms.**

33 Federal infringements on the people's right to keep and bear
34 arms, as guaranteed by the second amendment to the Constitution
35 of the United States, within the borders of this state include

1 but shall not be limited to the following federal acts, laws,
2 executive orders, administrative orders, court orders, rules,
3 and regulations:

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

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

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

19 4. Any act forbidding the possession, ownership, use, or
20 transfer of firearms, firearm accessories, or ammunition by
21 law-abiding citizens.

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

24 Sec. 5. NEW SECTION. **724A.5 Federal infringement void.**

25 All federal acts, laws, executive orders, administrative
26 orders, court orders, rules, and regulations, regardless if
27 enacted before or after the provisions this chapter, that
28 infringe on the people's right to keep and bear arms as
29 guaranteed by the second amendment to the Constitution of the
30 United States shall be invalid in this state, shall not be
31 recognized by this state, shall be specifically rejected by
32 this state, and shall have no effect in this state.

33 Sec. 6. NEW SECTION. **724A.6 Protection of right to keep and**
34 **bear arms.**

35 It shall be the duty of the courts and law enforcement

1 agencies of this state to protect the rights of law-abiding
2 citizens to keep and bear arms within the borders of this state
3 and to protect these rights from the infringements described
4 in section 724A.4.

5 Sec. 7. NEW SECTION. **724A.7 Enforcement of infringement of**
6 **right to keep and bear arms prohibited.**

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

14 Sec. 8. NEW SECTION. **724A.8 Liability for violation —**
15 **attorney fees.**

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

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

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

29 Sec. 9. NEW SECTION. **724A.9 Actions for violations.**

30 1. Any person residing or conducting business in a
31 jurisdiction who believes that a law enforcement officer or
32 supervisor of law enforcement officers of such jurisdiction has
33 taken action that violates this chapter shall have standing
34 to pursue an action against the jurisdiction that employs the
35 officer or supervisor for declaratory judgment in the district

1 court of the county in which the action allegedly occurred, or
2 in the district court of Polk county.

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

11 3. Nothing in this section shall preclude a person's right
12 of appeal or remediation.

13

EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill creates the second amendment preservation Act.

17 The bill defines "law-abiding citizen" to include a person
18 who is not otherwise precluded under state law from possessing
19 a firearm and does not include anyone who is not legally
20 present in the United States or the state of Iowa. The bill
21 affirms the state of Iowa's authority to regulate firearms
22 within its borders. The bill prohibits the enforcement of any
23 federal infringement on the people's right to keep and bear
24 arms. The bill provides examples of federal actions that are
25 considered infringements on the right to keep and bear arms,
26 including those actions that might reasonably be expected
27 to create a chilling effect on the purchase or ownership of
28 firearms, firearm accessories, or ammunition by law-abiding
29 citizens or any act ordering the confiscation of firearms,
30 firearm accessories, or ammunition from law-abiding citizens.
31 The bill declares void in the state a federal action that is
32 considered an infringement on the right to keep and bear arms.

33 The bill places a duty on courts and law enforcement agencies
34 of this state to protect the rights of law-abiding citizens
35 to keep and bear arms within the borders of this state and to

1 protect these rights from the infringements defined in the
2 bill. The bill holds liable an entity that acts knowingly to
3 violate the provisions of the bill while acting under color
4 of any state or federal law. The bill also holds liable a
5 political subdivision or law enforcement agency that employs
6 a law enforcement officer who acts knowingly to violate the
7 provisions of the bill while acting under color of any state
8 or federal law. In an action for declaratory judgment,
9 a jurisdiction that employs a law enforcement officer or
10 supervisor of law enforcement officers who is found to have
11 violated the bill is responsible for paying court costs,
12 attorney fees, and any other damages the court determines are
13 necessary.