

**House File 2335 - Introduced**

HOUSE FILE 2335

BY SHIPLEY

**A BILL FOR**

1 An Act creating the second amendment preservation Act, and  
2 providing penalties.

3 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 Definitions.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "*Law-abiding citizen*" means a person who is not otherwise  
8 precluded under state law from possessing a firearm and shall  
9 not be construed to include anyone who is not legally present  
10 in the United States or the state of Iowa.

11 2. "*Material aid*" includes but is not limited to  
12 voluntarily giving or allowing others to make use of lodging,  
13 communications equipment or services including social media  
14 accounts, facilities, weapons, personnel, transportation,  
15 clothing, or other physical assets. "*Material aid*" shall  
16 not include giving or allowing the use of medicine or other  
17 materials necessary to treat physical injuries or assistance  
18 provided to help persons escape a serious and present risk of  
19 life-threatening injuries.

20 3. "*Political subdivision*" means a city, county, township,  
21 or school district.

22 4. "*Public office*" means any state agency, public  
23 institution, political subdivision, or other organized body,  
24 office, agency, institution, or entity established by the laws  
25 of the state for the exercise of any function of government.

26 5. "*Public officer*" includes all officers, employees, or  
27 duly authorized representatives or agents of a public office  
28 in the state.

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

30 The general assembly finds and declares the following:

31 1. The general assembly is firmly resolved to support and  
32 defend the Constitution of the United States against every  
33 aggression, whether foreign or domestic, and is duty-bound to  
34 oppose every infraction of those principles that constitute the  
35 basis of the United States because only a faithful observance

1 of those principles can secure the nation's existence and the  
2 public happiness.

3 2. Acting through the Constitution of the United States, the  
4 people of the several states created the federal government to  
5 be their agent in the exercise of a few defined powers, while  
6 reserving for the state governments the power to legislate on  
7 matters concerning the lives, liberties, and properties of  
8 citizens in the ordinary course of affairs.

9 3. The limitation of the federal government's power is  
10 affirmed under the tenth amendment to the Constitution of the  
11 United States, which defines the total scope of federal power  
12 as being that which has been delegated by the people of the  
13 several states to the federal government, and all power not  
14 delegated to the federal government in the Constitution of the  
15 United States is reserved to the states respectively or to the  
16 people themselves.

17 4. If the federal government assumes powers that the people  
18 did not grant it in the Constitution of the United States, its  
19 acts are unauthoritative and of no force.

20 5. The several states of the United States respect  
21 the proper role of the federal government but reject the  
22 proposition that such respect requires unlimited submission.  
23 If the government, created by a compact among the states,  
24 was the exclusive or final judge of the extent of the powers  
25 granted to it by the states through the Constitution of the  
26 United States, the federal government's discretion, and not  
27 the Constitution of the United States, would necessarily  
28 become the measure of those powers. To the contrary, as in  
29 all other cases of compacts among powers having no common  
30 judge, each party has an equal right to judge for itself as to  
31 whether infractions of the compact have occurred, as well as  
32 to determine the mode and measure of redress. Although the  
33 several states have granted supremacy to laws and treaties made  
34 under the powers granted in the Constitution of the United  
35 States, such supremacy does not extend to various federal

1 statutes, executive orders, administrative orders, court  
2 orders, rules, regulations, or other actions that collect data  
3 or restrict or prohibit the manufacture, ownership, and use  
4 of firearms, firearm accessories, or ammunition exclusively  
5 within the borders of Iowa. Such statutes, executive orders,  
6 administrative orders, court orders, rules, regulations,  
7 and other actions exceed the powers granted to the federal  
8 government except to the extent they are necessary and proper  
9 for governing and regulating the United States armed forces  
10 or for organizing, arming, and disciplining militia forces  
11 actively employed in the service of the United States armed  
12 forces.

13 6. The people of the several states have given the United  
14 States Congress the power "to regulate commerce with foreign  
15 nations, and among the several states", but "regulating  
16 commerce" does not include the power to limit citizens'  
17 right to keep and bear arms in defense of their families,  
18 neighbors, persons, or property, or to dictate what sort of  
19 arms and accessories law-abiding citizens in Iowa may buy,  
20 sell, exchange, or otherwise possess within the borders of this  
21 state.

22 7. The people of the several states have also granted the  
23 United States Congress the power "to lay and collect taxes,  
24 duties, imposts and excises, to pay the debts and provide for  
25 the common defense and general welfare of the United States"  
26 and "to make all laws which shall be necessary and proper for  
27 carrying into execution" the powers vested by the Constitution  
28 of the United States "in the government of the United States,  
29 or in any department or officer thereof". These constitutional  
30 provisions merely identify the means by which the federal  
31 government may execute its limited powers and shall not be  
32 construed to grant unlimited power because to do so would be  
33 to destroy the carefully constructed equilibrium between the  
34 federal and state governments. Consequently, the general  
35 assembly rejects any claim that the taxing and spending powers

1 of the United States Congress may be used to diminish in any  
2 way the right of the people to keep and bear arms.

3 8. The general assembly finds that the federal excise tax  
4 rate on arms and ammunition in effect prior to January 1,  
5 2024, which funds programs under the Act of Congress described  
6 in section 456A.27, does not have a chilling effect on the  
7 purchase or ownership of such arms and ammunition.

8 9. The people of Iowa have vested the general assembly  
9 with the authority to regulate the manufacture, possession,  
10 exchange, and use of firearms, firearm accessories, or  
11 ammunition within the borders of this state, subject only to  
12 the limits imposed by the second amendment to the Constitution  
13 of the United States and the Constitution of the State of Iowa.

14 10. The general assembly of the state of Iowa strongly  
15 promotes responsible firearm ownership, including parental  
16 supervision of minors in the proper use, storage, and ownership  
17 of all firearms; the prompt reporting of stolen firearms; and  
18 the proper enforcement of all state firearm laws. The general  
19 assembly of the state of Iowa hereby condemns any unlawful  
20 transfer of firearms and the use of any firearm in any criminal  
21 or unlawful activity.

22 Sec. 4. NEW SECTION. 724A.4 Enforcement of infringement of  
23 right to keep and bear arms prohibited.

24 1. No public office, public officer, or employee of this  
25 state or any political subdivision of the state shall have the  
26 authority to enforce, attempt to enforce, or participate in any  
27 way in the enforcement of any federal Act, executive order,  
28 administrative order, rule, regulation, statute, or ordinance  
29 regarding firearms, firearm accessories, or ammunition against  
30 any law-abiding citizen.

31 2. No public office, public officer, or employee of this  
32 state or any political subdivision of the state shall accede  
33 to a request to give material aid or support to the efforts of  
34 another in the enforcement of or implementation of any federal  
35 Act, executive order, administrative order, rule, regulation,

1 statute, or ordinance regarding firearms, firearm accessories,  
2 or ammunition against any law-abiding citizen.

3     Sec. 5. NEW SECTION. **724A.5 Liability for violation —**  
4 **actions for violations — attorney fees.**

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

12     *b.* Any law-abiding citizen injured under this subsection  
13 shall have standing to pursue an action for injunctive relief  
14 in the district court of the county in which the action  
15 allegedly occurred or in the district court of Polk county.  
16 The court shall hold a hearing on the motion for a temporary  
17 restraining order or a preliminary injunction within thirty  
18 days of service of the petition.

19     2. *a.* Any political subdivision or law enforcement agency  
20 that knowingly employs an individual acting or who previously  
21 acted as an official, agent, employee, or deputy of the  
22 government of the United States, or otherwise acted under  
23 the color of federal law, who knowingly commits any of the  
24 following acts on or after July 1, 2024, shall be subject to a  
25 civil penalty of fifty thousand dollars for each such employee  
26 employed by the political subdivision or law enforcement  
27 agency:

28         (1) Enforces, attempts to enforce, or participates in any  
29 manner in the enforcement or implementation of any federal  
30 Act, executive order, administrative order, rule, regulation,  
31 statute, or ordinance regarding firearms, accessories, or  
32 ammunition.

33         (2) Gives material aid or support to the efforts of  
34 another in the enforcement or implementation of any federal  
35 Act, executive order, administrative order, rule, regulation,

1 statute, or ordinance regarding firearms, accessories, or  
2 ammunition.

3     *b.* Any law-abiding citizen residing or conducting business  
4 in a jurisdiction who believes that an individual has taken  
5 action in violation of the provisions of this subsection shall  
6 have standing to pursue an action of injunctive relief in the  
7 district court of the county in which the action allegedly  
8 occurred or in the district court of Polk county. The court  
9 shall hold a hearing on the motion for a temporary restraining  
10 order or a preliminary injunction within thirty days of service  
11 of the petition.

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

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

17     Sec. 6. NEW SECTION. **724A.6 When action is not a violation.**

18     1. A person does not violate the provisions of this chapter  
19 when the person provides material aid to federal officers  
20 who are in pursuit of a suspect when there is a demonstrable  
21 criminal nexus with another state or country and such suspect  
22 is either not a citizen of this state or is not present in this  
23 state.

24     2. A person does not violate the provisions of this chapter  
25 when the person provides material aid to federal prosecutors  
26 for felony violations involving controlled substances or  
27 violations against another person when such prosecution  
28 includes weapons violations substantially similar to the laws  
29 of this state so long as such weapons violations are merely  
30 ancillary to such prosecution.

31     3. A person does not violate the provisions of this chapter  
32 when accepting federal assistance for the enforcement of the  
33 laws of the state.

34

**EXPLANATION**

35     The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill creates the second amendment preservation Act.

3       The bill defines the terms "law-abiding citizen", "material  
4 aid", "political subdivision", "public office", and "public  
5 officer".

6       The bill places a duty on courts and law enforcement agencies  
7 of this state to protect the rights of law-abiding citizens  
8 to keep and bear arms within the borders of this state and to  
9 protect these rights from the infringements defined in the  
10 bill. The bill holds liable a political subdivision or law  
11 enforcement agency that employs a law enforcement officer who  
12 acts knowingly to violate the provisions of the bill while  
13 acting under color of any state or federal law. The bill also  
14 provides that if a political subdivision or law enforcement  
15 agency knowingly employs an individual acting or who previously  
16 acted as an official, agent, employee, or deputy of the federal  
17 government or otherwise acted under the color of federal law  
18 within the borders of this state who knowingly enforced,  
19 attempted to enforce, participated in, or gave material aid  
20 and support to the efforts of another to enforce or attempt to  
21 enforce, an infringement identified in the bill, the political  
22 subdivision or law enforcement agency is subject to a civil  
23 penalty of \$50,000 for each such person employed. In an  
24 action for injunctive relief, the court may hold a political  
25 subdivision or law enforcement agency that is found to have  
26 violated the bill responsible for paying reasonable attorney  
27 fees and costs.