

**House File 428 - Introduced**

HOUSE FILE 428  
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:

unofficial

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 not  
9 be construed to include anyone who is not legally present in the  
10 United States or the state of Iowa.

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

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

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

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

28 Sec. 3. NEW SECTION. **724A.3 Legislative findings.**

29 The general assembly finds and declares the following:

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

1 happiness.

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

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

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

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

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

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

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

35 8. The general assembly finds that the federal excise tax

1 rate on arms and ammunition in effect prior to January 1, 2025,  
2 which funds programs under the Act of Congress described in  
3 section 456A.27, does not have a chilling effect on the purchase  
4 or ownership of such arms and ammunition.

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

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

19 Sec. 4. NEW SECTION. **724A.4 Enforcement of infringement of**  
20 **right to keep and bear arms prohibited.**

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

28 2. No public office, public officer, or employee of this  
29 state or any political subdivision of the state shall accede  
30 to a request to give material aid or support to the efforts of  
31 another in the enforcement of or implementation of any federal  
32 Act, executive order, administrative order, rule, regulation,  
33 statute, or ordinance regarding firearms, firearm accessories, or  
34 ammunition against any law-abiding citizen.

35 Sec. 5. NEW SECTION. **724A.5 Liability for violation —**

**1 actions for violations — attorney fees.**

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

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

16 2. a. Any political subdivision or law enforcement agency  
17 that knowingly employs an individual acting or who previously  
18 acted as an official, agent, employee, or deputy of the  
19 government of the United States, or otherwise acted under the  
20 color of federal law, who knowingly commits any of the following  
21 acts on or after July 1, 2025, shall be subject to a civil  
22 penalty of fifty thousand dollars for each such employee employed  
23 by the political subdivision or law enforcement agency:

24 (1) Enforces, attempts to enforce, or participates in any  
25 manner in the enforcement or implementation of any federal Act,  
26 executive order, administrative order, rule, regulation, statute,  
27 or ordinance regarding firearms, accessories, or ammunition.

28 (2) Gives material aid or support to the efforts of another  
29 in the enforcement or implementation of any federal Act,  
30 executive order, administrative order, rule, regulation, statute,  
31 or ordinance regarding firearms, accessories, or ammunition.

32 b. Any law-abiding citizen residing or conducting business in  
33 a jurisdiction who believes that an individual has taken action  
34 in violation of the provisions of this subsection shall have  
35 standing to pursue an action of injunctive relief in the district

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

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

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

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

13 1. A person does not violate the provisions of this chapter  
14 when the person provides material aid to federal officers who are  
15 in pursuit of a suspect when there is a demonstrable criminal  
16 nexus with another state or country and such suspect is either  
17 not a citizen of this state or is not present in this state.

18 2. A person does not violate the provisions of this chapter  
19 when the person provides material aid to federal prosecutors for  
20 felony violations involving controlled substances or violations  
21 against another person when such prosecution includes weapons  
22 violations substantially similar to the laws of this state so  
23 long as such weapons violations are merely ancillary to such  
24 prosecution.

25 3. A person does not violate the provisions of this chapter  
26 when accepting federal assistance for the enforcement of the laws  
27 of the state.

28 **EXPLANATION**

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

31 This bill creates the second amendment preservation Act.

32 The bill defines the terms "law-abiding citizen", "material  
33 aid", "political subdivision", "public office", and "public  
34 officer".

35 The bill places a duty on courts and law enforcement agencies

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