

House File 2718 - Introduced

HOUSE FILE 2718
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 430)

A BILL FOR

1 An Act relating to the seizure of firearms, providing
2 penalties, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 724.33 Anti-red flag gun seizure.

2 1. This section may be cited and referred to as the
3 *"Anti-Red Flag Gun Seizure Act"*.

4 2. For purposes of this section:

5 a. *"Law-abiding citizen"* means a person that is not
6 otherwise precluded under state law from possessing a firearm.

7 b. *"Red flag law"* means any of the following:

8 (1) A firearm control law, order, or measure that directs
9 the temporary or permanent seizure of any firearm, firearm
10 accessory, or ammunition of an individual.

11 (2) A federal statute, federal rule, federal executive
12 order, or federal judicial order or finding, or any state
13 statute, state rule, state executive order, or state judicial
14 order or finding, that does any of the following:

15 (a) Prohibits a resident from owning, possessing,
16 transporting, transferring, or receiving any firearm, firearm
17 accessory, or ammunition without the conviction of a violent
18 felony crime or other disqualification under section 724.8B.

19 (b) Orders the removal or requires the surrender of any
20 firearm, firearm accessory, or ammunition from a resident
21 except persons lawfully in custody or persons who have been
22 released after the execution of a bail bond after having been
23 charged with a violent felony as described in section 724.8B.

24 3. Any federal order of protection, other judicial order
25 issued by a federal court, or federal executive order that is
26 a red flag law or otherwise directs the confiscation of any
27 firearm, firearm accessory, or ammunition from any law-abiding
28 citizen within the borders of this state shall not be enforced
29 in this state by any state agency, political subdivision, or
30 state or local law enforcement agency.

31 4. No state agency, political subdivision, or state or local
32 law enforcement agency shall receive any federal moneys for
33 the purpose of enforcing any federal statute, federal rule,
34 federal executive order, or federal judicial order or findings,
35 or for the purpose of enforcing any state statute, state rule,

1 state executive order, or state judicial order or findings,
2 that would have the effect of enforcing a red flag law against
3 a resident.

4 5. No state entity or employee thereof, political
5 subdivision or employee thereof, or other person shall have
6 the authority to enforce or attempt to enforce a red flag law
7 regardless of the red flag law's origin or the authority of the
8 issuing entity. This subsection shall not apply to any agent
9 of the federal government enforcing a federal law or federal
10 order.

11 6. Nothing in this section shall be construed to prevent a
12 firearm, firearm accessory, or ammunition from being seized as
13 evidence by law enforcement in the course of an investigation.

14 7. *a.* A political subdivision or state or local law
15 enforcement agency that employs a law enforcement officer who
16 knowingly acts to violate this section and enforce a red flag
17 law under any state or federal statute, rule, executive order,
18 or judicial order or finding shall be liable to the party
19 against whom the red flag law was enforced in an action at law,
20 suit in equity, or other proper proceeding for redress and
21 shall be subject to a civil penalty of fifty thousand dollars
22 per occurrence.

23 *b.* Any person injured under this section shall have standing
24 to pursue an action for injunctive relief in the district court
25 of the county in which the action allegedly occurred or in the
26 district court of Polk county.

27 *c.* The court shall hold a hearing on any motion for a
28 temporary restraining order or preliminary injunction within
29 thirty days of service of the petition.

30 *d.* In an action brought under this section by a party
31 against whom the red flag law was enforced, a court may order
32 injunctive or other equitable relief, recovery of damages,
33 other legal remedies, and payment of reasonable attorney fees,
34 costs, and expenses of the party. The relief and remedies set
35 forth in this section shall not be deemed exclusive and shall

1 be in addition to any other relief or remedies permitted by
2 law. The court may award the prevailing party, if not the
3 state or a political subdivision thereof, reasonable attorney
4 fees and costs.

5 e. Sovereign immunity shall not be an affirmative defense to
6 any action brought under this section.

7 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
8 importance, takes effect upon enactment.

9 EXPLANATION

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

12 This bill establishes the "Anti-Red Flag Gun Seizure Act"
13 related to the seizure of firearms.

14 For purposes of the bill, "red flag law" is defined as any
15 firearm control law, order, or measure that directs the seizure
16 of any firearm of an individual; or any federal or state rule,
17 statute, or judicial order that prohibits a resident from
18 owning or receiving any firearm, or any order for the removal
19 or surrender of any firearm, unless such resident is lawfully
20 in custody or has been released after the execution of a bail
21 bond after having been charged with a violent felony.

22 The bill provides that any red flag law that directs the
23 confiscation of any firearm from any law-abiding citizen within
24 Iowa will not be enforced within Iowa.

25 The bill prohibits any state agency, political subdivision,
26 or state or local law enforcement agency from receiving any
27 federal funds for the purpose of enforcing any federal law,
28 order, or judicial finding or for the purpose of enforcing any
29 state statute, rule, order, or judicial finding that would have
30 the effect of enforcing a red flag law against a resident.

31 The bill prohibits any person, including a state entity
32 or employee thereof, or political subdivision or employee
33 thereof, from enforcing or attempting to enforce a red flag law
34 regardless of the red flag law's origin or the authority of the
35 issuing entity, except that this prohibition shall not apply

1 to any agent of the federal government enforcing a federal law
2 or federal order.

3 The bill provides that any political subdivision or state
4 or local law enforcement agency that employs a law enforcement
5 officer that knowingly violates the provisions of the bill is
6 liable to the party against whom a red flag law was enforced
7 and additionally will be subject to a civil penalty of \$50,000
8 per occurrence.

9 In any action brought under the provisions of the bill, a
10 court may order injunctive or other equitable relief, recovery
11 of damages, other legal remedies, and payment of reasonable
12 attorney fees, costs, and expenses of the party. Such relief
13 must not be exclusive and additional relief or remedies may be
14 awarded as otherwise permitted by law.

15 The bill takes effect upon enactment.