

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1386

5 By: Representatives Gonzales, Pilkington, McCollum, Dotson, B. Smith, Rye, Richmond
6 By: Senators B. Ballinger, T. Garner
7

For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE "ARKANSAS SECOND AMENDMENT
10 LIBERTIES SAFEGUARDS ACT"; TO REQUIRE STATE AGENCIES
11 AND PUBLIC OFFICERS TO DISREGARD UNCONSTITUTIONAL
12 OVERREACHES OF POWER; TO PROTECT THE CONSTITUTIONAL
13 RIGHTS OF ARKANSANS; AND FOR OTHER PURPOSES.
14
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Subtitle

17 TO BE KNOWN AS THE "ARKANSAS SECOND
18 AMENDMENT LIBERTIES SAFEGUARDS ACT"; TO
19 REQUIRE STATE AGENCIES AND PUBLIC
20 OFFICERS TO DISREGARD UNCONSTITUTIONAL
21 OVERREACHES OF POWER; AND TO PROTECT THE
22 CONSTITUTIONAL RIGHTS OF ARKANSANS.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Scope.

28 (a)(1) The Tenth Amendment to the United States Constitution
29 guarantees to the states and their people all powers not granted to the
30 United States Government elsewhere in the United States Constitution and
31 reserves to the State of Arkansas and its people certain powers as those
32 powers were understood at the time that Arkansas was admitted into statehood
33 in 1836.

34 (2) The guaranty of those powers is a matter of contract between
35 the State of Arkansas and its people and the United States as of the time
36 that the compact with the United States was agreed upon and adopted by



1 Arkansas and the United States in 1836.

2 (b)(1) The Ninth Amendment to the United States Constitution
3 guarantees to the people rights not granted in the United States Constitution
4 and reserves to the people of Arkansas certain rights as they were understood
5 at the time that Arkansas was admitted into statehood in 1836.

6 (2) The guaranty of those rights is a matter of contract between
7 the State of Arkansas and its people and the United States as of the time
8 that the compact with the United States was agreed upon and adopted by
9 Arkansas and the United States in 1836.

10 (c) The regulation of intrastate commerce is vested in the states
11 under the Ninth and Tenth Amendments to the United States Constitution.

12 (d) The Second Amendment to the United States Constitution reserves
13 the right to keep and bear arms to the people as that right was understood at
14 the time that Arkansas was admitted into statehood in 1836, and the guaranty
15 of the right is a matter of contract between the State of Arkansas and its
16 people and the United States as of the time that the compact with the United
17 States was agreed upon and adopted by Arkansas and the United States in 1836.

18 (e)(1) Arkansas Constitution, Article 2, § 5, clearly secures to
19 Arkansas citizens and prohibits government interference with the right of
20 individual Arkansas citizens to keep and bear arms.

21 (2) This constitutional protection is unchanged from the 1836
22 Arkansas Constitution, which was approved by the United States Congress and
23 the people of Arkansas, and the right exists as it was understood at the time
24 that the compact with the United States was agreed upon and adopted by
25 Arkansas and the United States in 1836.

26
27 SECTION 2. Arkansas Code Title 5, Chapter 73, Subchapter 1, is amended
28 to add an additional section to read as follows:

29 5-73-134. Unlawful enforcement of federal statutes.

30 (a) An employee of an agency of the State of Arkansas or any public
31 servant of the State of Arkansas shall not knowingly enforce or attempt to
32 enforce any act, law, statute, rule, or regulation of the United States
33 Government created or effective on or after January 1, 2021, and relating to
34 a personal firearm, firearm accessory, or ammunition that is owned or
35 manufactured commercially or privately in Arkansas so long as that firearm,
36 accessory, or ammunition is within the borders of Arkansas.

1 (b) A state actor, local government, or political subdivision may not
 2 utilize any resource to enforce any act, law, statute, rule, or regulation of
 3 the United States Government created or effective on or after January 1,
 4 2021, and relating to a personal firearm, firearm accessory, or ammunition
 5 that is owned or manufactured commercially or privately in Arkansas.

6 (c) A person who violates this section upon conviction is guilty of a
 7 Class A misdemeanor.

8
 9 SECTION 3. Arkansas Code § 16-81-106(b), concerning authority to
 10 arrest without a warrant, is amended to read as follows:

11 (b) A certified law enforcement officer may make an arrest:

12 (1) In obedience to a warrant of arrest delivered to him or her;
 13 and

14 (2)(A) Without a warrant, ~~where~~ if a public offense is committed
 15 in his or her presence or ~~where~~ if he or she has reasonable grounds for
 16 believing that the person arrested has committed a felony.

17 (B) In addition to any other warrantless arrest authority
 18 granted by law or court rule, a certified law enforcement officer may arrest
 19 a person for a misdemeanor without a warrant if the officer has probable
 20 cause to believe that the person has committed battery upon another person,
 21 the officer finds evidence of bodily harm, and the officer reasonably
 22 believes that there is danger of violence unless the person alleged to have
 23 committed the battery is arrested without delay, except as provided in
 24 subsection (j) of this section.

25
 26 SECTION 4. Arkansas Code § 16-81-106(c)(1), concerning authority to
 27 arrest without a warrant, is amended to read as follows:

28 (c)(1) A certified law enforcement officer who is outside his or her
 29 jurisdiction may arrest without warrant a person who commits an offense
 30 within the officer's presence or view if the offense is a felony or a
 31 misdemeanor, except as provided in subsection (j) of this section.

32
 33 SECTION 5. Arkansas Code § 16-81-106, concerning authority to arrest
 34 without a warrant, is amended to add an additional subsection to read as
 35 follows:

36 (j) A certified law enforcement officer shall not make an arrest under

1 § 5-73-134 without a warrant.

2
3 SECTION 6. Arkansas Code Title 25, Chapter 16, Subchapter 7, is
4 amended to add an additional section to read as follows:

5 25-16-717. Defense of Arkansas resident in firearm cases.

6 (a) The Attorney General shall defend a resident of Arkansas who is
7 prosecuted by the United States Government after January 1, 2021, for any
8 federal law, rule, regulation, or order relating to the manufacture, sale,
9 transfer, or possession of a firearm, a firearm accessory, or ammunition
10 owned or manufactured if the person was acting in accordance with § 5-73-134
11 or § 12-15-101.

12 (b) If the defendant retains private counsel in his or her defense
13 against prosecution, the Attorney General shall be relieved as counsel.