

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 188

Introduced by Halloran, 33.

Read first time January 08, 2021

Committee:

- 1 A BILL FOR AN ACT relating to firearms; to adopt the Second Amendment
- 2 Preservation Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Second Amendment Preservation Act.

3 Sec. 2. The Legislature finds that:

4 (1) The right to keep and bear arms is a fundamental individual
5 right that shall not be infringed;

6 (2) It is the intent of the Legislature in enacting the Second
7 Amendment Preservation Act to protect Nebraska state employees, including
8 law enforcement officers, from being directed, through federal executive
9 orders, agency orders, statutes, laws, rules, or regulations in effect on
10 or after the effective date of this act, to violate their oath of office
11 and individual rights affirmed under the Second Amendment to the
12 Constitution of the United States and Article 1, section 1, of the
13 Constitution of Nebraska;

14 (3) Pursuant to and in furtherance of the principles of federalism
15 enshrined in the Constitution of the United States, the federal
16 government shall not commandeer this state's officers, agents, or
17 employees to participate in the enforcement or facilitation of any
18 federal act or regulatory program;

19 (4) This right to be free from the commandeering hand of the federal
20 government has been most notably recognized by the Supreme Court of the
21 United States in 1997 in Printz v. United States when the court held "The
22 Federal Government may neither issue directives requiring the States to
23 address particular problems, nor command the States' officers, or those
24 of their political subdivisions, to administer or enforce a federal
25 regulatory program"; and

26 (5) The anti-commandeering principles recognized by the Supreme
27 Court of the United States in Printz v. United States are predicated upon
28 the advice of James Madison who, in Federalist No. 46, advised "a refusal
29 to co-operate with officers of the Union" in response to either
30 unconstitutional federal measures or constitutional but unpopular federal
31 measures.

1 Sec. 3. Other than compliance with an order of a court,
2 notwithstanding any law, regulation, rule, or order to the contrary, no
3 agency or political subdivision of this state, or employee of an agency
4 or political subdivision of this state acting in such employee's official
5 capacity, shall:

6 (1) Knowingly and willingly participate in any way in the
7 enforcement of any federal act, law, order, rule, or regulation regarding
8 a firearm, firearm accessory, or ammunition if the act, law, order, rule,
9 or regulation does not exist under the laws of this state; or

10 (2) Utilize any assets, state funds, or funds allocated by the state
11 to local entities on or after the effective date of this act, in whole or
12 in part, to engage in any activity that aids a federal agency, federal
13 agent, or corporation providing services to the federal government in the
14 enforcement or any investigation pursuant to the enforcement of any
15 federal act, law, order, rule, or regulation regarding a firearm, firearm
16 accessory, or ammunition if the act, law, order, rule, or regulation does
17 not exist under the laws of this state.

18 Sec. 4. (1) Any agent or employee of this state or of any political
19 subdivision of this state who knowingly violates the prohibitions in
20 section 3 of this act shall, for a first violation, be liable for a civil
21 penalty not to exceed three thousand dollars which civil penalty shall be
22 remitted to the State Treasurer for credit to the General Fund and, for a
23 second or subsequent violation, be guilty of a Class I misdemeanor.

24 (2) A political subdivision of this state shall not receive grant
25 funds from this state if the political subdivision adopts a rule, order,
26 ordinance, or policy under which the political subdivision violates
27 section 3 of this act. Grant funds from this state for the political
28 subdivision shall be denied for the fiscal year following the year in
29 which a final judicial determination in an action brought under this
30 section is made that the political subdivision has intentionally required
31 actions which violate the prohibitions in section 3 of this act.

1 Sec. 5. If any section in this act or any part of any section is
2 declared invalid or unconstitutional, the declaration shall not affect
3 the validity or constitutionality of the remaining portions.