

SENATE FILE NO. SF0081

Second Amendment Preservation Act.

Sponsored by: Senator(s) Bouchard, Biteman, French,
Hutchings, James, McKeown and Salazar and
Representative(s) Baker, Bear, Burt,
Fortner, Gray, Haroldson, Heiner, Laursen,
Neiman, Ottman, Rodriguez-Williams, Wharff
and Winter

A BILL

for

1 AN ACT relating to firearms; making legislative findings;
2 invalidating certain federal laws that limit the right to
3 bear arms; prohibiting enforcement of invalidated federal
4 laws; imposing employment consequences for those enforcing
5 invalidated federal laws; waiving sovereign immunity as
6 specified; providing for severability; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.**

12

13 (a) The legislature finds that:

1

2 (i) The legislature is firmly resolved to
3 support and defend the constitution of the United States
4 against every aggression, whether foreign or domestic, and
5 is duty bound to oppose every infraction of those
6 principles that constitute the basis of the United States
7 because only a faithful observance of those principles can
8 secure the union's existence and the public happiness;

9

10 (ii) Acting through the constitution of the
11 United States, the people of the several states created the
12 federal government to be their agent in the exercise of a
13 few defined powers, while reserving for the state
14 governments the power to legislate on matters concerning
15 the lives, liberties and properties of citizens in the
16 ordinary course of affairs;

17

18 (iii) The limitation of the federal government's
19 power is affirmed under the tenth amendment of the
20 constitution of the United States, which defines the total
21 scope of federal power as being that which has been
22 delegated by the people of the several states to the
23 federal government, and all power not delegated to the

1 federal government in the constitution of the United States
2 is reserved to the states respectively or to the people
3 themselves;

4

5 (iv) If the federal government assumes powers
6 that the people did not grant it in the constitution of the
7 United States, its acts are unauthoritative, void and of no
8 force;

9

10 (v) The several states of the United States
11 respect the proper role of the federal government but
12 reject the proposition that such respect requires unlimited
13 submission. If the government, created by a compact among
14 the states, was the exclusive or final judge of the extent
15 of the powers granted to it by the states through the
16 constitution of the United States, the federal government's
17 discretion, and not the constitution of the United States,
18 would necessarily become the measure of those powers. To
19 the contrary, as in all other cases of compacts among
20 powers having no common judge, each party has an equal
21 right to judge for itself as to whether infractions of the
22 compact have occurred, as well as to determine the mode and
23 measure of redress. Although the several states have

1 granted supremacy to laws and treaties made under the
2 powers granted in the constitution of the United States,
3 such supremacy does not extend to various federal statutes,
4 executive orders, administrative orders, court orders,
5 rules, regulations or other actions that collect data or
6 restrict or prohibit the manufacture, ownership and use of
7 firearms, firearm accessories or ammunition exclusively
8 within the borders of Wyoming. Rather, such statutes,
9 executive orders, administrative orders, court orders,
10 rules, regulations and other actions exceed the powers
11 granted to the federal government except to the extent they
12 are necessary and proper for governing and regulating the
13 armed forces of the United States or for organizing, arming
14 and disciplining militia forces actively employed in the
15 service of the armed forces of the United States;

16

17 (vi) The people of the several states have given
18 congress the power "to regulate commerce with foreign
19 nations, and among the several states", but "regulating
20 commerce" does not include the power to limit citizens'
21 right to keep and bear arms in defense of their families,
22 neighbors, persons or property or to dictate what sort of
23 arms and accessories law abiding Wyomingites may buy, sell,

1 exchange or otherwise possess within the borders of this
2 state;

3

4 (vii) The people of the several states have also
5 granted congress the power "to lay and collect taxes,
6 duties, imports, and excises, to pay the debts, and provide
7 for the common defense and general welfare of the United
8 States" and "to make all laws which shall be necessary and
9 proper for carrying into execution the powers vested by the
10 constitution of the United States in the government of the
11 United States, or in any department or office thereof".
12 These constitutional provisions merely identify the means
13 by which the federal government may execute its limited
14 powers and shall not be construed to grant unlimited power
15 because to do so would be to destroy the carefully
16 constructed equilibrium between the federal and state
17 governments. Consequently, the legislature rejects any
18 claim that the taxing and spending powers of congress may
19 be used to diminish in any way the right of the people to
20 keep and bear arms;

21

22 (viii) The people of Wyoming have vested the
23 legislature with the authority to regulate the manufacture,

1 possession, exchange and use of firearms within the borders
2 of this state, subject only to the limits imposed by the
3 second amendment of the constitution of the United States
4 and the constitution of Wyoming; and

5
6 (ix) The Wyoming legislature strongly promotes
7 responsible gun ownership, including parental supervision
8 of minors in the proper use, storage and ownership of all
9 firearms, the prompt reporting of stolen firearms and the
10 proper enforcement of all state gun laws. The Wyoming
11 legislature hereby condemns any unlawful transfer of
12 firearms and the use of any firearm in any criminal or
13 unlawful activity.

14

15 **Section 2.** W.S. 6-8-407 through 6-8-409 are created
16 to read:

17

18 **6-8-407. Invalidation of certain federal laws.**

19

20 (a) The following federal acts, laws, executive
21 orders, administrative orders, court orders, rules and
22 regulations shall be considered infringements on the
23 people's right to keep and bear arms, as guaranteed by the

1 second amendment of the constitution of the United States
2 and article 1, section 24 of the Wyoming constitution,
3 within the borders of this state including, but not limited
4 to:

5

6 (i) Any tax, levy, fee or stamp imposed on
7 firearms, firearm accessories or ammunition not common to
8 all other goods and services and that might reasonably be
9 expected to create a chilling effect on the purchase or
10 ownership of those items by law abiding citizens;

11

12 (ii) Any registering or tracking of firearms,
13 firearm accessories or ammunition that might reasonably be
14 expected to create a chilling effect on the purchase or
15 ownership of those items by law abiding citizens;

16

17 (iii) Any registering or tracking of the owners
18 of firearms, firearm accessories or ammunition that might
19 reasonably be expected to create a chilling effect on the
20 purchase or ownership of those items by law abiding
21 citizens;

22

1 (iv) Any act forbidding the possession,
2 ownership or use or transfer of a firearm, firearm
3 accessory or ammunition by law abiding citizens; or

4

5 (v) Any act ordering the confiscation of
6 firearms, firearm accessories or ammunition from law
7 abiding citizens.

8

9 (b) All federal acts, laws, executive orders,
10 administrative orders, court orders, rules and regulations,
11 regardless if enacted before or after this section, that
12 infringe on the people's right to keep and bear arms as
13 guaranteed by the second amendment of the constitution of
14 the United States and article 1, section 24 of the Wyoming
15 constitution shall be invalid in this state, shall not be
16 recognized by this state, shall be specifically rejected by
17 this state and shall be considered null, void and of no
18 effect in this state.

19

20 (c) It shall be the duty of the courts and law
21 enforcement agencies of this state to protect the rights of
22 law abiding citizens to keep and bear arms within the

1 borders of this state and to protect these rights from the
2 infringements defined under subsection (a) of this section.

3

4 (d) For purposes of this section, "law abiding
5 citizen" means an individual who is not otherwise precluded
6 under state law from possessing a firearm and shall not be
7 construed to include anyone who is not legally present in
8 the United States or the state of Wyoming.

9

10 **6-8-408. Prohibition on enforcement of invalidated**
11 **federal laws; liability.**

12

13 (a) No person, including any public officer or
14 employee of this state or any political subdivision of this
15 state, shall have the authority to enforce or attempt to
16 enforce any federal acts, laws, executive orders,
17 administrative orders, court orders, rules, regulations,
18 statutes or ordinances infringing on the right to keep and
19 bear arms.

20

21 (b) Any public officer or employee of this state or
22 any political subdivision of this state who acts knowingly
23 to violate the provisions of subsection (a) of this section

1 or otherwise knowingly deprives a resident of Wyoming of
2 the rights or privileges ensured by the second amendment of
3 the constitution of the United States or article 1, section
4 24 of the Wyoming constitution, while acting under the
5 color of any state or federal law, shall be liable to the
6 injured party in an action at law, suit in equity or other
7 proper proceeding for redress. In such actions, the court
8 may award the prevailing party, other than the state of
9 Wyoming or any political subdivision of the state,
10 reasonable attorney's fees and costs. Sovereign, official
11 or qualified immunity shall not be an affirmative defense
12 in such actions.

13

14 **6-8-409. Law enforcement employment ineligibility.**

15

16 (a) Any public officer or employee of this state or
17 any political subdivision of this state, who acts as an
18 official, agent, employee, or deputy of the government of
19 the United States, or otherwise acting under the color of
20 federal law within the borders of this state, and knowingly
21 enforces or attempts to enforce any of the infringements
22 identified in W.S. 6-8-407(a) or gives material aid and
23 support to the efforts of others who enforce or attempt to

1 enforce any of the infringements identified in W.S.
2 6-8-407(a) shall be permanently ineligible to serve as a
3 law enforcement officer or to supervise law enforcement
4 officers for the state or any political subdivision of the
5 state.

6

7 (b) Neither the state nor any political subdivision
8 of the state shall employ as a law enforcement officer or
9 supervisor of law enforcement officers any person who is
10 ineligible to serve in such capacity under this section.

11

12 (c) Any person residing or conducting business in a
13 jurisdiction who believes that a law enforcement officer or
14 supervisor of law enforcement officers of such jurisdiction
15 has taken action that would render that officer or
16 supervisor ineligible under this section to serve in such
17 capacity shall have standing to pursue an action for
18 declaratory judgment in the district court of the county in
19 which the action allegedly occurred, or in the district
20 court of Laramie county, with respect to the employment
21 eligibility of the law enforcement officer or the
22 supervisor of law enforcement officers under this section.

23

1 (d) If a court determines that a law enforcement
2 officer or supervisor of law enforcement officers has taken
3 any action that would render him ineligible to serve in
4 that capacity under this section:

5

6 (i) The law enforcement officer or supervisor of
7 law enforcement officers shall immediately be terminated
8 from his position; and

9

10 (ii) The jurisdiction that had employed the
11 ineligible law enforcement officer or supervisor of law
12 enforcement officers shall be required to pay the court
13 costs and attorney's fees associated with the declaratory
14 judgment action that resulted in the finding of
15 ineligibility.

16

17 **Section 3.** W.S. 1-39-104(a) is amended to read:

18

19 **1-39-104. Granting immunity from tort liability;**
20 **liability on contracts; exceptions.**

21

22 (a) A governmental entity and its public employees
23 while acting within the scope of duties are granted

1 immunity from liability for any tort except as provided by
2 W.S. 1-39-105 through 1-39-112 and 6-8-408(b). Any immunity
3 in actions based on a contract entered into by a
4 governmental entity is waived except to the extent provided
5 by the contract if the contract was within the powers
6 granted to the entity and was properly executed and except
7 as provided in W.S. 1-39-120(b). The claims procedures of
8 W.S. 1-39-113 apply to contractual claims against
9 governmental entities.

10

11 **Section 4.** If any provision of this act or the
12 application thereof to any person or circumstance is held
13 invalid the invalidity does not affect other provisions or
14 applications of the section or related sections which can
15 be given effect without the invalid provision or
16 application, and to this end the provisions are severable.

17

18 **Section 5.** This act is effective July 1, 2021.

19

20

(END)