



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, Jennings, Laursen, Neiman, Ottman, Rodriguez-Williams, Wharff and Winter

AN ACT relating to firearms; prohibiting the enforcement of unconstitutional federal actions that infringe upon the right to bear arms; prohibiting the expenditure of public funds to enforce unconstitutional federal actions; authorizing executive orders and other actions to implement the act; providing for representation by the Wyoming attorney general of Wyoming citizens charged by the United States government under federal laws that unconstitutionally infringe upon the right to bear arms; providing rulemaking authority; providing an appropriation; and providing for an effective date.

2/3/2021 Bill Number Assigned
2/4/2021 S Received for Introduction
2/4/2021 S Introduced and Referred to S01 - Judiciary
3/17/2021 S01 - Judiciary:Recommend Do Pass 5-0-0-0-0

ROLL CALL

Ayes: Senator(s) Cooper, French, Kolb, Kost, Nethercott
Ayes 5 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

3/17/2021 S Placed on General File
3/19/2021 S COW:Laid Back

SF0081SW001/ADOPTED

Page 2-line 3 Delete "constitution" and insert "Constitution".
Page 2-line 10 Delete "constitution" and insert "Constitution".
Page 2-line 20 Delete "constitution" and insert "Constitution".
Page 3-line 1 Delete "constitution" and insert "Constitution".
Page 3-line 6 Delete "constitution" and insert "Constitution".
Page 3-line 16 Delete "constitution" and insert "Constitution".
Page 3-line 17 Delete "constitution" and insert "Constitution".
Page 4-line 2 Delete "constitution" and insert "Constitution".
Page 4-line 18 Delete "commerce" and insert "Commerce".
Page 4-line 19 Delete "nations" and insert "Nations"; delete "states" and insert "States"; delete "regulating" and insert "regulating".
Page 4-line 20 Delete """.
Page 5-line 5 Delete "to" and insert "To"; delete "taxes" and insert "Taxes".

Page 5-line 6 Delete entirely and insert "Duties, Imposts and Excises, to pay the Debts and provide".

Page 5-line 7 Delete "defense" and insert "Defense"; delete "welfare" and insert "Welfare".

Page 5-line 8 Delete "to" and insert "To"; delete "laws" and insert "Laws".

Page 5-line 9 Delete "execution the powers" and insert "Execution the foregoing Powers, and all other Powers"; after "by" delete "the" and insert "this".

Page 5-line 10 Delete "constitution of the United States" and insert "Constitution"; delete "government" and insert "Government".

Page 5-line 11 Delete "department" and insert "Department"; delete "office" and insert "Officer"; after "thereof" delete "." and insert ".".

Page 6-line 3 Delete "constitution" and insert "Constitution".

Page 6-line 4 Delete "constitution" and insert "Constitution".

Page 7-line 1 Delete "constitution" and insert "Constitution".

Page 7-line 2 Delete "constitution" and insert "Constitution".

Page 8-line 13 Delete "constitution" and insert "Constitution".

Page 8-line 15 Delete "constitution" and insert "Constitution".

Page 10-line 3 Delete "constitution" and insert "Constitution".

Page 10-line 4 Delete "constitution" and insert "Constitution". HUTCHINGS

SF0081SW002/WITHDRAWN

SF0081SW003/ADOPTED

Page 1-line 4 After "laws;" delete balance of line.

Page 1-line 5 Delete entirely.

Page 1-line 6 Delete "specified;" and insert "providing for a civil action and a civil penalty;"; after "severability;" insert "specifying applicability;".

Page 6-line 15 Delete "through 6-8-409" and insert "and 6-8-408".

Page 6-line 22 After "regulations" insert "enacted on and after April 1, 2021".

Page 8-line 11 Delete "regardless if enacted before or after this section" and insert "enacted on and after April 1, 2021".

Page 9-line 14 Delete "or" and insert ",".

Page 9-line 15 After "state" delete "," and insert "or any political subdivision or law enforcement agency of this state that employs an official, agent, employee or deputy of the government of the United States acting under the color of federal law within the borders of this state".

Page 9-line 16 After "enforce" insert "or to give material aid and support to another who enforces or attempts to enforce".

Page 9-line 18 After "ordinances" insert "enacted on and after April 1, 2021".

Page 9-line 19 After "arms" insert "as enumerated in W.S. 6-8-407(a)".

Page 9-line 21 After "state" delete "or" and insert ",".

Page 9-line 22 Delete "who" and insert "or any political subdivision or law enforcement agency of this state that employs an official, agent, employee or deputy of the government of the United States acting under the color of federal law within the borders of this state, which".

Page 10-line 6 After "equity" insert ", declaratory judgment".

Page 10-line 7 After "actions" delete "," and insert ":

(i) Any person who is aggrieved by a violation of this section shall have standing to pursue an action in the district court of the county in which the action allegedly occurred;

(ii)".

Page 10-line 9 Delete "," and insert ":

(A) Not less than fifty thousand dollars (\$50,000.00) per violation;

(B)".

Page 10-line 10 Delete "Sovereign, official".

Page 10-lines 11 and 12 Delete entirely and insert ";

(iii) If a court imposes a civil penalty as provided in subparagraph (ii)(A) of this subsection, attorney's fees and costs as provided in subparagraph (ii)(B) of this subsection, or both a penalty and fees and costs, then the state, political subdivision or law enforcement agency that employs the person who violated W.S. 6-8-407(a) or subsection (a) of this section shall be required to pay any penalty, fees and costs that the court orders."

Section 1. W.S. 9-14-103 is created to read:

9-14-103. Prohibition on enforcement of certain federal laws; procedures.

(a) Upon the issuance of an executive order authorized under this section, no public officer or employee of this state or any political subdivision of this state, shall enforce, attempt to enforce or assist a federal agency or agent in the enforcement of any federal action which is the subject of the executive order.

(b) Twenty-five (25) or more adult Wyoming residents, or an organization representing twenty-five (25) or more adult Wyoming residents, may file a petition requesting a review by the Wyoming attorney general of any federal action as defined in this section which was issued or enacted on or after July 1, 2021. The petition may include relevant views and arguments regarding the infringement of the federal action upon the constitutional right to keep and bear arms. The attorney general shall review the federal action and publicly issue a determination of whether the action unconstitutionally infringes upon the right to keep and bear arms under the second amendment to the constitution of the United States. The attorney general shall issue the determination not later than thirty (30) days after the petition was received. The attorney general shall prescribe by rule the form of the petition and the procedure for its submission, consideration and disposition.

(c) At any time after the submission of the petition, if the attorney general determines the federal action is unconstitutional, and if the governor independently determines the federal action appears to unconstitutionally infringe on the second amendment right to keep and bear arms, and further determines that prohibiting enforcement of the federal action under this section is in the best interests of the state, the governor may issue an executive order directing public officers and employees of this state or a political subdivision of the state that they are not to enforce, attempt to enforce or assist a federal agency or agent in the enforcement of the specified federal action.

(d) No public officer or employee of this state or of a political subdivision of the state shall expend public funds or allocate public resources for the enforcement of a federal action which is the subject of an executive order issued under this section.

(e) Nothing in this section shall be construed to prohibit or otherwise limit a public officer and employee of this state or of a political subdivision of the state from cooperating in an action with a federal agency if the primary purpose of the action is not enforcement of a federal action subject to an executive order issued under this section.

(f) As used in this section, "federal action" includes laws, executive orders, administrative orders, rules, regulations, statutes and ordinances issued or enacted by the federal executive or legislative branches.

Section 2. W.S. 9-14-101 is amended to read:

9-14-101. Second amendment defense.

(a) The attorney general may seek to intervene or file an amicus curiae brief in any lawsuit filed in any state or federal court in Wyoming, or filed against any Wyoming citizen or firm in any other jurisdiction for damages for injuries as a result of the use of fire arms that are not defective, if in his

judgment, the action endangers the constitutional right of citizens of Wyoming to keep and bear arms. The attorney general is directed to advance arguments that protect the constitutional right to bear arms. Before intervening in any lawsuit pursuant to this section, the attorney general shall obtain the approval of the governor.

(b) The attorney general shall defend any citizen of Wyoming who is prosecuted by the United States government for violation of any federal action which is the subject of an executive order issued pursuant to W.S. 9-14-103(c).

Section 3. The attorney general of the state of Wyoming may coordinate with the attorneys general of other states which have enacted laws similar to this act to develop appropriate responses to federal actions which violate the second amendment to the constitution of the United States.

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

(END)".

To the extent required by this amendment, renumber as necessary. HICKS

ROLL CALL

Ayes: Senator(s) Anderson, Baldwin, Boner, Case, Cooper, Dockstader, Driskill, Furphy, Gierau, Hicks, Hutchings, Kinskey, Kolb, Kost, Landen, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Wasserburger

Nays: Senator(s) Biteman, Bouchard, Ellis, French, James, Mckeown, Salazar

Ayes 23 **Nays** 7 **Excused** 0 **Absent** 0 **Conflicts** 0

SF0081S3001.02/ADOPTED

[DIVIDED AMENDMENT]
(CORRECTED COPY)

Pages 2 through 13

In the Hicks third reading amendment to these pages, first division (SF0081S3001.01/AC), after Section 3 created by that amendment, insert and renumber as necessary:

"**Section 4.** There is appropriated two hundred fifty thousand dollars (\$250,000.00) from the general fund to the attorney general's office for the purposes of implementing this act. This appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this reappropriation on June 30, 2022 shall revert as provided by law.".

HICKS

ROLL CALL

Ayes: Senator(s) Anderson, Baldwin, Boner, Case, Cooper, Dockstader, Driskill, Furphy, Hicks, Hutchings, Kinskey, Kolb, Kost, Landen, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Wasserburger

Nays: Senator(s) Biteman, Bouchard, Ellis, French, Gierau, James, Mckeown, Salazar

Ayes 22 **Nays** 8 **Excused** 0 **Absent** 0 **Conflicts** 0

3/24/2021 S 3rd Reading:Passed 24-6-0-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Baldwin, Biteman, Boner, Case, Cooper, Dockstader, Driskill, Ellis, French, Furphy, Hicks, Hutchings, Kinskey, Kolb, Kost, Landen, Nethercott, Pappas, Perkins, Schuler, Scott, Steinmetz, Wasserburger

Nays: Senator(s) Bouchard, Gierau, James, Mckeown, Rothfuss, Salazar

Ayes 24 **Nays** 6 **Excused** 0 **Absent** 0 **Conflicts** 0

3/25/2021 H Received for Introduction

3/31/2021 H Did Not Consider for Introduction