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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1696 Session of  
2021

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INTRODUCED BY JOZWIAK, KAUFFMAN, COX, MILLARD, SMITH, GREINER,  
HAMM, RYAN, KNOWLES, ROTHMAN, BERNSTINE, JAMES, DIAMOND,  
DAVANZO, SCHMITT, IRVIN, STAATS, OBERLANDER, JONES, MOUL,  
PENNYCUICK, ROWE, STRUZZI, SAYLOR, HEFFLEY, BOROWICZ,  
ZIMMERMAN, KEEFER AND GILLEN, JUNE 24, 2021

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 24, 2021

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AN ACT

1 Providing for Second Amendment Preservation Act, for limitation  
2 of Federal law and for private cause of action.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Second  
7 Amendment Preservation Act.

8 Section 2. Findings and declarations.

9 The General Assembly finds and declares as follows:

10 (1) The General Assembly is firmly resolved to support  
11 and defend the Constitution of the United States against  
12 every aggression, either foreign or domestic, and the General  
13 Assembly is duty bound to watch over and oppose every  
14 infraction of those principles which constitute the basis of  
15 the Union of the States, because only a faithful observance  
16 of those principles can secure the nation's existence and the

1 public happiness.

2 (2) Acting through the Constitution of the United  
3 States, the people of the several states created the Federal  
4 Government to be their agent in the exercise of a few defined  
5 powers, while reserving to the state governments the power to  
6 legislate on matters which concern the lives, liberties and  
7 properties of citizens in the ordinary course of affairs.

8 (3) The limitation of the Federal Government's power is  
9 affirmed under the Tenth Amendment to the Constitution of the  
10 United States, which defines the total scope of Federal power  
11 as being that which has been delegated by the people of the  
12 several states to the Federal Government, and all power not  
13 delegated to the Federal Government in the Constitution of  
14 the United States is reserved to the states respectively, or  
15 to the people themselves.

16 (4) Whenever the Federal Government assumes powers that  
17 the people did not grant it in the Constitution, its acts are  
18 unauthoritative, void and of no force.

19 (5) The several states of the United States are not  
20 united on the principle of unlimited submission to their  
21 Federal Government. If the government created by the compact  
22 among the states were the exclusive or final judge of the  
23 extent of the powers granted to it by the Constitution, the  
24 Federal Government's discretion, and not the Constitution,  
25 would be the measure of those powers. To the contrary, as in  
26 all other cases of compacts among powers having no common  
27 judge, each party has an equal right to judge itself, as well  
28 as infractions of the mode and measure of redress. Although  
29 the several states have granted supremacy to laws and  
30 treaties made pursuant to the powers granted in the

1 Constitution, supremacy does not apply to various Federal  
2 statutes, orders, rules, regulations or other actions which  
3 restrict or prohibit the manufacture, ownership and use of  
4 firearms, firearm accessories or ammunition exclusively  
5 within the borders of this Commonwealth and those statutes,  
6 orders, rules, regulations and other actions exceed the  
7 powers granted to the Federal Government except to the extent  
8 they are necessary and proper for the government and  
9 regulation of the land and naval forces of the United States  
10 or for the organizing, arming and disciplining of militia  
11 forces actively employed in the service of the United States  
12 Armed Forces.

13 (6) The people of the several states have given the  
14 Congress of the United States the power "to regulate commerce  
15 with foreign nations, and among the several states, and with  
16 the Indian tribes," but "regulating commerce" does not  
17 include the power to limit citizens' right to keep and bear  
18 arms in defense of their families, neighbors, persons or  
19 property or to dictate to what sort of arms and accessories  
20 law-abiding mentally competent residents of this Commonwealth  
21 may buy, sell, exchange or otherwise possess within the  
22 borders of this Commonwealth.

23 (7) The people of the several states have also given  
24 Congress the power "to lay and collect taxes, duties,  
25 imports, and excises, to pay the debts, and provide for the  
26 common defense and general welfare of the United States" and  
27 "to make all laws which shall be necessary and proper for  
28 carrying into execution the powers vested by the Constitution  
29 in the government of the United States, or in any department  
30 or officer thereof". These constitutional provisions merely

1 identify the means by which the Federal Government may  
2 execute its limited powers and ought not to be so construed  
3 as themselves to give unlimited powers because to do so would  
4 be to destroy the balance of power between the Federal  
5 Government and the state governments. The General Assembly  
6 denies any claim that the taxing and spending powers of  
7 Congress can be used to diminish in any way the people's  
8 right to keep and bear arms.

9 (8) The citizens of this Commonwealth have vested the  
10 General Assembly with the authority to regulate the  
11 manufacture, possession, exchange and use of firearms within  
12 the borders of this Commonwealth, subject only to the limits  
13 imposed by the Second Amendment to the Constitution of the  
14 United States and the Constitution of Pennsylvania.

15 Section 3. Limitation of Federal law.

16 All Federal acts, laws, orders, rules and regulations,  
17 whether past, present or future, which infringe on the people's  
18 right to keep and bear arms as guaranteed by the Second  
19 Amendment to the Constitution of the United States and section  
20 21 of Article I of the Constitution of Pennsylvania shall be  
21 invalid in this Commonwealth, shall not be recognized by this  
22 Commonwealth, shall be specifically rejected by this  
23 Commonwealth and shall be considered null and void and of no  
24 effect in this Commonwealth. The Federal acts, laws, orders,  
25 rules and regulations subject to this section shall include, but  
26 are not limited to:

27 (1) The National Firearms Act of 1934 (Public Law 73-  
28 474, 48 Stat. 1236).

29 (2) The Gun Control Act of 1968 (Public Law 90-618, 82  
30 Stat. 1213).

1           (3) Any tax, levy, fee or stamp imposed on firearms,  
2 firearm accessories or ammunition not common to all other  
3 goods and services which could have a chilling effect on the  
4 purchase or ownership of those items by a law-abiding  
5 citizen.

6           (4) Any registering or tracking of firearms, firearm  
7 accessories or ammunition which could have a chilling effect  
8 on the purchase or ownership of those items by a law-abiding  
9 citizen.

10          (5) Any registering or tracking of the owners of  
11 firearms, firearm accessories or ammunition which could have  
12 a chilling effect on the purchase or ownership of those items  
13 by a law-abiding citizen.

14          (6) Any act forbidding the possession, ownership or use  
15 or transfer of any type of firearm, firearm accessory or  
16 ammunition by a law-abiding citizen.

17          (7) Any act ordering the confiscation of firearms,  
18 firearm accessories or ammunition from a law-abiding citizen.

19 Section 4. Enforcement.

20        It shall be the duty of the courts and law enforcement  
21 agencies of this Commonwealth to protect the rights of law-  
22 abiding citizens to keep and bear arms within the borders of  
23 this Commonwealth and enforce the provisions of section 3.

24 Section 5. Prohibitions.

25        No public officer or employee of this Commonwealth may  
26 enforce or attempt to enforce any of the infringements on the  
27 right to keep and bear arms included in section 3. Any official,  
28 agent or employee of the United States Government who enforces  
29 or attempts to enforce any of the infringements on the right to  
30 keep and bear arms included in section 3 shall be guilty of a

1 misdemeanor punishable by up to five years' imprisonment and a  
2 fine of up to \$10,000.

3 Section 6. Private cause of action.

4 Any citizen who has been subject to an effort to enforce any  
5 of the infringements on the right to keep and bear arms included  
6 in section 3 shall have a private cause of action for  
7 declaratory judgment and for damages against any person or  
8 entity attempting the enforcement.

9 Section 7. Effective date.

10 This act shall take effect in 60 days.