



26 | be their agent in the exercise of a few defined powers, while  
27 | reserving to the state governments the power to legislate on  
28 | matters that concern the lives, liberties and properties of  
29 | citizens in the ordinary course of affairs, and

30 |       WHEREAS, the limitation of the Federal Government's power  
31 | is affirmed under the Tenth Amendment to the United States  
32 | constitution, which defines the total scope of federal power as  
33 | being that which has been delegated by the people of the several  
34 | states to the Federal Government, and all power not delegated to  
35 | the Federal Government in the United States Constitution is  
36 | reserved to the states respectively, or to the people  
37 | themselves, and

38 |       WHEREAS, whenever the Federal Government assumes powers  
39 | that the people did not grant it in the United States  
40 | constitution, its acts are unauthoritative, void and of no  
41 | force, and

42 |       WHEREAS, the several states of the United States respect  
43 | the proper role of the Federal Government, but reject the  
44 | proposition that such respect requires unlimited submission. If  
45 | the government, created by a compact among the states, was the  
46 | exclusive or final judge of the extent of the powers granted to  
47 | it by the states through the United States Constitution, the  
48 | Federal Government's discretion, and not the United States  
49 | Constitution, would necessarily become the measure of those  
50 | powers, and

51           WHEREAS, as in all other cases of compacts among powers  
52 having no common judge, each party has an equal right to judge  
53 for itself as to whether infractions of the compact have  
54 occurred, as well as to determine the mode and measure of  
55 redress and although the several states have granted supremacy  
56 to laws and treaties made under the powers granted in the United  
57 States Constitution, supremacy does not extend to various  
58 federal statutes, executive orders, administrative orders, court  
59 orders, rules, regulations or other actions that restrict or  
60 prohibit the manufacture, ownership and use of firearms,  
61 firearms accessories or ammunition exclusively in this state,  
62 and

63           WHEREAS, these statutes, executive orders, administrative  
64 orders, court orders, rules, regulations and other actions  
65 exceed the powers granted to the Federal Government except to  
66 the extent they are necessary and proper for governing and  
67 regulating land and naval forces of the United States or for  
68 organizing, arming and disciplining of militia forces actively  
69 employed in the service of the United States armed forces, and

70           WHEREAS, the people of the several states have given  
71 Congress the power "to regulate commerce with foreign nations,  
72 and among the several states", but regulating commerce does not  
73 include the power to limit citizens' right to keep and bear arms  
74 in defense of their families, neighbors, persons, or property,  
75 or to dictate as to what sort of arms and accessories law-

76 | abiding citizens may buy, sell, exchange, or otherwise possess  
77 | in this state, and

78 |       WHEREAS, the people of the several states have also granted  
79 | Congress the power "to lay and collect taxes, duties, imposts  
80 | and excises, to pay the debts and provide for the common defense  
81 | and general welfare of the United States" and "to make all laws  
82 | which shall be necessary and proper for carrying into execution  
83 | the foregoing powers, and all other powers vested by the United  
84 | States Constitution in the government of the United States, or  
85 | in any department or office thereof," and

86 |       WHEREAS, these constitutional provisions merely identify  
87 | the means by which the Federal Government may execute its  
88 | limited powers and shall not be so construed to grant unlimited  
89 | power because to do so would be to destroy the carefully  
90 | constructed equilibrium between the federal and state  
91 | governments. Consequently, the Legislature rejects any claim  
92 | that the taxing and spending powers of congress can be used to  
93 | diminish in any way the right of the people to keep and bear  
94 | arms, and

95 |       WHEREAS, the people of the state have vested the  
96 | Legislature with the authority to regulate the manufacture,  
97 | possession, exchange, and use of firearms in the state, subject  
98 | only to the limits imposed by the Second Amendment to the United  
99 | States Constitution and s. 8, Art. I of the State Constitution,  
100 | and

101 WHEREAS, the Legislature strongly promotes responsible gun  
 102 ownership and the proper enforcement of all state gun laws. The  
 103 Legislature hereby condemns any unlawful transfer of firearms  
 104 and the use of any firearm in any criminal or unlawful activity,  
 105 NOW, THEREFORE,

106  
 107 Be It Enacted by the Legislature of the State of Florida:

108  
 109 Section 1. This act may be cited as the "Second Amendment  
 110 Preservation Act".

111 Section 2. Section 790.501, Florida Statutes, is created  
 112 to read:

113 790.501 Protection of constitutional firearms rights.-

114 (1) DEFINITIONS.-As used in this section, the term:

115 (a) "Firearms accessories" means items that are used in  
 116 conjunction with or mounted upon a firearm but are not essential  
 117 to the basic function of a firearm, including, but not limited  
 118 to, telescopic or laser sights, magazines, folding or  
 119 aftermarket stocks and grips, speedloaders, ammunition carriers,  
 120 optics for target identification, and lights for target  
 121 illumination.

122 (b) "Law-abiding citizen" means a person who is not  
 123 otherwise precluded under state law from possessing a firearm.  
 124 The term does not include a person who is not lawfully present  
 125 in the United States or a person in the process committing or

126 attempting to commit a crime.

127 (2) INFRINGEMENTS ON THE PEOPLE'S RIGHT TO KEEP AND BEAR  
128 ARMS; DUTIES OF COURTS AND LAW ENFORCEMENT AGENCIES.—

129 (a) The following federal acts, laws, executive orders,  
130 administrative orders, court orders, rules, and regulations  
131 shall be considered infringements on the people's right to keep  
132 and bear arms, as guaranteed by the Second Amendment to the  
133 United States Constitution and s. 8, Art I of the State  
134 Constitution, within the state including:

135 1. Any tax, levy, fee, or stamp imposed on firearms,  
136 firearms accessories, or ammunition, not common to all other  
137 goods and services, which might reasonably be expected to create  
138 a chilling effect on the purchase or ownership of those items by  
139 law-abiding citizens.

140 2. Any registering or tracking of firearms, firearms  
141 accessories, or ammunition which might reasonably be expected to  
142 create a chilling effect on the purchase or ownership of those  
143 items by law-abiding citizens.

144 3. Any registering or tracking of the owners of firearms,  
145 firearms accessories, or ammunition which might reasonably be  
146 expected to create a chilling effect on the purchase or  
147 ownership of those items by law-abiding citizens.

148 4. Any act forbidding the possession, ownership, or use or  
149 transfer of a firearm, firearm accessory, or ammunition by law-  
150 abiding citizens.

151 5. Any act ordering the confiscation of firearms, firearms  
152 accessories, or ammunition from law-abiding citizens.

153 (b) All federal acts, laws, executive orders,  
154 administrative orders, court orders, rules, and regulations,  
155 regardless if enacted before or after this section, which  
156 infringe on the people's right to keep and bear arms as  
157 guaranteed by the Second Amendment to the United States  
158 Constitution and s. 8, Art I of the State Constitution shall be  
159 invalid in the state, shall not be recognized by the state,  
160 shall be specifically rejected by the state, and shall be  
161 considered void and of no effect in the state.

162 (c) It shall be the duty of the courts and law enforcement  
163 agencies of the state to protect the rights of law-abiding  
164 citizens to keep and bear arms in the state and to protect these  
165 rights from the infringements described under paragraph (a).

166 (3) PROHIBITIONS; LIABILITY FOR VIOLATION.—

167 (a) No person, including any public servant, as defined in  
168 838.014, shall have the authority to enforce or attempt to  
169 enforce any federal act, law, executive order, administrative  
170 order, court order, rule, regulation, statute, or ordinance  
171 infringing on the right to keep and bear arms ensured by the  
172 Second Amendment to the United States Constitution and s. 8, Art  
173 I of the State Constitution.

174 (b) A person who knowingly violates paragraph (a) or  
175 otherwise knowingly deprives a law-abiding citizen of the rights

176 | or privileges ensured by the Second Amendment to the United  
 177 | States Constitution and s. 8, Art I of the State Constitution,  
 178 | while acting under the color of any state or federal law, shall  
 179 | be liable to the injured party in an action at law, suit in  
 180 | equity, or other proper proceeding for redress.

181 | (c) In any action under paragraph (b), the court may award  
 182 | the prevailing party, other than the state or any political  
 183 | subdivision of the state, costs and expenses, including  
 184 | reasonable attorney fees.

185 | (4) OFFENSES; INELIGIBILITY FOR EMPLOYMENT; DECLARATORY  
 186 | JUDGEMENT.—

187 | (a) A person while acting as an official, agent, employee,  
 188 | or deputy of the Federal Government, or while otherwise acting  
 189 | under the color of federal law in the state shall be permanently  
 190 | ineligible for employment as a law enforcement officer or to  
 191 | supervise law enforcement officers for the state or any  
 192 | political subdivision of the state, if the person knowingly:

193 | 1. Enforces or attempts to enforce any of the  
 194 | infringements described in paragraph (3) (a); or

195 | 2. Gives material aid and support to the efforts of others  
 196 | who enforce or attempt to enforce any of the infringements  
 197 | described in paragraph (3) (a).

198 | (b) Neither the state nor any political subdivision of the  
 199 | state shall employ as a law enforcement officer or supervisor of  
 200 | law enforcement officers a person who is ineligible for



201 employment under paragraph (a).

202 (c) A person residing in or conducting business in the  
203 state who reasonably believes that a law enforcement officer or  
204 supervisor of law enforcement officers has taken action as a  
205 federal official, agent, employee, or deputy or under the color  
206 of federal law under paragraph (a) that would render that person  
207 ineligible for employment shall have standing to pursue an  
208 action for declaratory judgment in the circuit court of the  
209 county in which the action allegedly occurred or in the circuit  
210 of Leon County, with respect to the employment eligibility of  
211 the law enforcement officer or the supervisor of law enforcement  
212 officers under paragraph (a).

213 (d) If a court determines that a law enforcement officer  
214 or supervisor of law enforcement officers has taken any action  
215 as a federal official, agent, employee, or deputy or under the  
216 color of federal law that would render him or her ineligible for  
217 employment under paragraph (a):

218 1. The law enforcement officer or supervisor of law  
219 enforcement officers shall immediately be terminated from his or  
220 her position.

221 2. The state or political subdivision that employed the  
222 ineligible law enforcement officer or supervisor of law  
223 enforcement officers shall be required to pay the costs and  
224 expenses, including reasonable attorney fees, associated with  
225 the declaratory judgment action that resulted in the finding of

HB 1205

2021

226 | ineligibility.

227 |       (e) This section does not preclude a person's right of  
228 | appeal under the laws of the state.

229 |       Section 3. This act shall take effect July 1, 2021.