

2022 South Dakota Legislature

House Bill 1052**AMENDMENT 1052J FOR THE HOUSE JUDICIARY
ENGROSSED BILL**

1 **An Act to place limitations on the enforcement of federal laws and orders related to**
2 **firearms, accessories, and ammunition.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to title 23:**

5 Terms used in sections 2 to 8, inclusive of this Act, mean:

6 (1) "Law-abiding citizen," a person who is not otherwise precluded, under state law,
7 from owning or possessing a firearm; and

8 (2) "Material aid," clothing, communications equipment and services, facilities,
9 firearms, firearm accessories, ammunition, lodging, social media accounts,
10 personnel, transportation, and other physical assets.

11 **Section 2. That a NEW SECTION be added to title 23:**

12 For purposes of this Act, the following federal actions, whether undertaken by
13 statute, regulation, executive order, judicial order, or administrative order, constitute
14 federal infringements on the people's right to keep and bear arms, as guaranteed by the
15 Second Amendment of the United States Constitution:

16 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or
17 ammunition, not common to other goods and services, and which might reasonably
18 be expected to create a chilling effect on the purchase or ownership of firearms,
19 firearm accessories, or ammunition by law-abiding citizens;

20 (2) Any registration or tracking of firearms, firearm accessories, or ammunition, which
21 might reasonably be expected to create a chilling effect on the purchase or
22 ownership of firearms, firearm accessories, or ammunition by law-abiding citizens;

23 (3) Any registration or tracking of the owners of firearms, firearm accessories, or
24 ammunition, which might reasonably be expected to create a chilling effect on the

1 purchase or ownership of firearms, firearm accessories, or ammunition by law-
2 abiding citizens;

3 (4) Any action forbidding the possession, ownership, use, or transfer of firearms,
4 firearm accessories, or ammunition by law-abiding citizens; and

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

7 **Section 3. That a NEW SECTION be added to title 23:**

8 Any federal action described in section ~~1-2~~ of this Act:

9 (1) Is invalid in this state;

10 (2) May not be recognized ~~in~~ by this state;

11 (3) Must be specifically rejected by this state; and

12 (4) ~~Has no effect in~~ May not be enforced by this state.

13 **Section 4. That a NEW SECTION be added to title 23:**

14 Each court and any law enforcement agency having jurisdiction in this state shall
15 protect the right of law-abiding citizens to keep and bear arms, within this state, and shall
16 protect these rights from any federal action described in section ~~1-2~~ of this Act.

17 **Section 5. That a NEW SECTION be added to title 23:**

18 No state agency, political subdivision, or any elected or appointed official or
19 employee of this state or of a political subdivision, acting under governmental authority,
20 may enforce or attempt to enforce any federal action described in section ~~1-2~~ of this Act.

21 Nothing in this chapter precludes the acceptance of aid from federal officials for
22 the purpose of enforcing the laws of this state.

23 **Section 6. That a NEW SECTION be added to title 23:**

24 Any political subdivision or law enforcement agency that employs a law
25 enforcement officer who knowingly violates this Act, is liable for any injury caused to a
26 person and is subject to ~~imposition, by a court, of a civil penalty an order of restitution,~~
27 ~~by a circuit court having jurisdiction over the area in which the violation occurred, in the~~
28 amount of fifty thousand dollars per violation.

1 Any political subdivision or law enforcement agency that knowingly employs a
2 person who was found to have violated this Act, is subject to a civil penalty in the amount
3 of fifty thousand dollars for each person so employed.

4 The court shall forward any civil penalty collected under this section to the state
5 treasurer for deposit in the general fund.

6 Any person may seek the issuance of a temporary or permanent injunction to
7 restrain and prevent a violation of this Act. Any prevailing party, other than a political
8 subdivision, is entitled to receive reasonable attorney's fees and costs.

9 **Section 7. That a NEW SECTION be added to title 23:**

10 It is not a violation of this Act for a person to voluntarily provide material aid to a
11 federal law enforcement officer who is in pursuit of a suspect having a demonstrable
12 criminal nexus with another state or country, provided the suspect is not a resident of this
13 state and not present in this state, or during an emergency situation involving an active
14 shooter on federal property located within the state of South Dakota.

15 It is not a violation of this Act for a person to provide material aid to assist a federal
16 prosecutor in any felony case involving controlled substances or violence against another
17 person, if the case includes weapons violations of laws that are substantially similar to
18 laws of this state and if the weapons violations are ancillary to the prosecution.

19 It is not a violation of this Act for a person to seek federal grants to fight domestic
20 violence or human trafficking by those who are breaking South Dakota or federal law.

21
22 **Section 8. That chapter 22-15 be amended with a NEW SECTION:**

23 A person may not own or possess a firearm, if the person:

24 (1) Is a fugitive from justice;

25 (2) Has been adjudicated as a mental defective or has been committed to any mental
26 institution;

27 (3) Is an unlawful user of or addicted to any controlled drug or substance, as defined
28 in § 34-20B-3;

29 (4) Is an illegal alien or otherwise unlawfully present in the United States;

30 (5) Has been discharged from the Armed Forces under dishonorable conditions;

31 (6) Has renounced United States citizenship; or

32 (7) Is subject to a restraining order or a protection order for harassing, stalking, or
33 threatening an intimate partner or a child of an intimate partner, or for engaging

1 in conduct that would place an intimate partner in reasonable fear of bodily injury
2 either to the intimate partner or to a child of the intimate partner, provided the
3 order:

4 (a) Was issued after a hearing for which the person received actual notice and
5 had been given an opportunity to participate; and

6 (b) Includes a finding that the person represents a credible threat to the
7 physical safety of an intimate partner or child of an intimate partner or
8 explicitly prohibits the use, attempted use, or threatened use of physical
9 force that would reasonably be expected to cause bodily injury, against an
10 intimate partner or child of an intimate partner.

11 Any person who violates this section is guilty of a Class 6 felony.

12
13
14 **Section 9. That chapter 22-14 be amended with a NEW SECTION:**

15 Sovereign immunity is not an affirmative defense in any action pursued under
16 sections 2 to 8, inclusive, of this Act.
17