

SENATE BILL 1593

By Summerville

AN ACT to enact a State Interposition Act relative to the Second Amendment.

WHEREAS, state rights and powers are sovereign, a unique culture, heritage, and history with liberties requiring neither permission or approval by the federal government, because the powers of the federal government are enumerated, limited, and defined by the United States Constitution and subsequent federal law of the land; and

WHEREAS, James Madison, in his Virginia Resolution of 1798, asserted state governments not only have the right to resist unconstitutional federal acts, but that, in order to protect liberty, they are “duty bound to interpose” or stand between the federal government and the people of their state; and

WHEREAS, in *Printz v. United States*, 521 S.Ct. 898 (1997), the Supreme Court of the United States discussed a federal government requirement that states perform background checks on citizens purchasing guns; the majority opinion by Justice Scalia refers to the “dual sovereignty” established by the United States Constitution that federalism is built upon, and his opinion clearly states that the framers designed the Constitution to allow federal regulation of international and interstate matters, not internal matters reserved to the state legislatures, and the majority arrives at the conclusion that allowing the federal government to draft the police officers of the fifty states into its service would increase its powers far beyond what the constitution intends; and

WHEREAS, state citizen rights to keep and bear arms are not subject to federal wishes, laws, orders or other restrictions on the number or type of arms, the quantity or quality of ammunition, or other limitations that impede or restrict the rights of state citizens; and

WHEREAS, federal treaties executed with foreign nations have no bearing or effect on state citizen rights to keep and bear arms; and

WHEREAS, any efforts to enforce illegal acts, regardless of the enforcement origins, will be resisted and repelled in perpetuity through the State Interposition Act; and

WHEREAS, The Supreme Court of the United States confirmed state interposition rights in great detail, setting new precedent in *National Federation of Independent Business v. Sebelius* 132 S.Ct. 2566 (2011) with Chief Justice Roberts writing the opinion of the Court; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. It is the intent of the general assembly that this act codify the sworn duty and process of this state to interpose to prevent usurpation or encroachment upon this sovereign state by the federal government with respect to Second Amendment restrictions in violation of state rights in intrastate commerce, culture, federalism, and the constitutional rights of this state's citizens.

SECTION 2. Pursuant to Section 5(i) of the State Interposition Act, legal encroachment issues resulting from the specific encroachment on the Second Amendment of the United States Constitution include the following orderly specified issues:

(1) The violation of the rights of citizens to keep and bear arms under the Second Amendment of the United States Constitution by Presidential Executive Orders and Laws of Congress regarding background checks of state citizens purchasing, trading, or gifting of guns, or restrictions on gun ammunition, parts or components;

(2) The violation of "dual sovereignty" established by the United States Constitution and efforts by the federal government to circumvent such through requirements that include states performing background checks on citizens purchasing guns and further federal regulation of internal matters reserved to the state legislatures;

(3) The restriction of rights of state citizens, including citizen rights to keep and bear arms not subject to federal wishes, laws or orders, other restrictions on the number or type of arms, the quantity or quality of ammunition, or other such limitations; and

(4) Efforts to enforce illegal acts, including federal treaties executed with foreign nations that have no bearing or effect on state citizen rights to keep and bear arms.

SECTION 4.

(a) A person who knowingly conspires or acts to interfere with state interposition of any federal Second Amendment encroachment, pursuant to the State Interposition Act, commits a Class E felony, punishable by a minimum of one (1) year and a maximum of thirty-six (36) months.

(b) In addition to criminal prosecution pursuant to subsection (a), the attorney general and reporter shall pursue a civil action against such person to recover all compensatory damages and punitive damages, calculated as treble damages, in a court of competent jurisdiction.

SECTION 5. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.