

## HOUSE BILL NO. HB0118

Second Amendment Preservation Act.

Sponsored by: Representative(s) Jennings, Blackburn,  
Edwards, Gray, Hallinan, Miller, Piiparinen,  
Salazar, Styvar and Tass and Senator(s)  
Biteman, Hutchings and Steinmetz

A BILL

for

1 AN ACT relating to firearms regulation; establishing the  
2 Second Amendment Preservation Act; describing certain  
3 actions as infringing on the right to keep and bear arms;  
4 invalidating, not recognizing and rejecting certain actions  
5 by the federal government; providing for the protection of  
6 specified rights; specifying liability; providing for the  
7 termination of and prohibiting the employment of specified  
8 persons; providing for declaratory judgments; providing  
9 legislative findings and declaration of authority; and  
10 providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

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1           **Section 1.** W.S. 6-8-501 through 6-8-506 are created  
2 to read:

3

4

ARTICLE 5

5

SECOND AMENDMENT PRESERVATION ACT

6

7

**6-8-501. Short title.**

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9 This article shall be known and may be cited as the "Second  
10 Amendment Preservation Act".

11

12

**6-8-502. Definitions.**

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14

(a) As used in this article:

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16

(i) "Ammunition" means as provided in W.S.

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6-8-403(a)(i);

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19

(ii) "Borders of Wyoming" means as provided in

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W.S. 6-8-403(a)(ii);

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22

(iii) "Firearm" means as provided in W.S.

23

6-8-403(a)(iii);

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2 (iv) "Firearms accessories" means as provided in  
3 W.S. 6-8-403(a)(iv);

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5 (v) "Law abiding citizen" means a person who is  
6 not otherwise precluded under state law from possessing a  
7 firearm. "Law abiding citizen" shall not be construed to  
8 include any person who is not lawfully present in the  
9 United States or any person in the process committing or  
10 attempting to commit a crime under state law.

11

12 **6-8-503. Infringements on the people's right to keep**  
13 **and bear arms; duties of courts and law enforcement**  
14 **agencies.**

15

16 (a) The following federal acts, laws, executive  
17 orders, administrative orders, court orders, rules and  
18 regulations shall be considered infringements on the  
19 people's right to keep and bear arms, as guaranteed by the  
20 second amendment to the United States constitution and  
21 article 1, section 24 of the Wyoming constitution, within  
22 this state including, but not limited to:

23

1           (i) Any tax, levy, fee or stamp imposed on  
2 firearms, firearms accessories or ammunition, not common to  
3 all other goods and services, which might reasonably be  
4 expected to create a chilling effect on the purchase or  
5 ownership of those items by law abiding citizens;

6

7           (ii) Any registering or tracking of firearms,  
8 firearms accessories or ammunition which might reasonably  
9 be expected to create a chilling effect on the purchase or  
10 ownership of those items by law abiding citizens;

11

12           (iii) Any registering or tracking of the owners  
13 of firearms, firearms accessories or ammunition which might  
14 reasonably be expected to create a chilling effect on the  
15 purchase or ownership of those items by law abiding  
16 citizens;

17

18           (iv) Any act forbidding the possession,  
19 ownership or use or transfer of a firearm, firearm  
20 accessory or ammunition by law abiding citizens; and

21

1           (v) Any act ordering the confiscation of  
2 firearms, firearms accessories or ammunition from law  
3 abiding citizens.

4  
5           (b) All federal acts, laws, executive orders,  
6 administrative orders, court orders, rules and regulations,  
7 regardless if enacted before or after the provisions of  
8 this article, which infringe on the people's right to keep  
9 and bear arms as guaranteed by the second amendment to the  
10 United States constitution and article 1, section 24 of the  
11 Wyoming constitution shall be invalid in this state, shall  
12 not be recognized by this state, shall be specifically  
13 rejected by this state and shall be considered null and  
14 void and of no effect in this state.

15  
16           (c) It shall be the duty of the courts and law  
17 enforcement agencies of this state to protect the rights of  
18 law abiding citizens to keep and bear arms within the  
19 borders of Wyoming and to protect these rights from the  
20 infringements described under subsection (a) of this  
21 section.

22

1           **6-8-504. Prohibitions; liability for violation;**  
2 **attorney's fees.**

3

4           (a) No person, including any public servant as  
5 defined in W.S. 6-5-101, shall have the authority to  
6 enforce or attempt to enforce any federal act, law,  
7 executive order, administrative order, court order, rule,  
8 regulation, statute or ordinance infringing on the right to  
9 keep and bear arms ensured by the second amendment to the  
10 United States constitution and article 1, section 24 of the  
11 Wyoming constitution.

12

13           (b) Any person who knowingly violates the provisions  
14 of subsection (a) of this section or otherwise knowingly  
15 deprives a law abiding citizen of the rights or privileges  
16 ensured by the second amendment to the United States  
17 constitution and article 1, section 24 of the Wyoming  
18 constitution, while acting under the color of any state or  
19 federal law, shall be liable to the injured party in an  
20 action at law, suit in equity or other proper proceeding  
21 for redress.

22

1           (c) In any action under subsection (b) of this  
2 section, the court may award the prevailing party, other  
3 than the state of Wyoming or any political subdivision of  
4 the state, costs and expenses, including reasonable  
5 attorney's fees.

6

7           **6-8-505. Offenses; ineligibility for employment;  
8 declaratory judgement.**

9

10           (a) Any person while acting as an official, agent,  
11 employee or deputy of the federal government, or while  
12 otherwise acting under the color of federal law within the  
13 borders of Wyoming shall be permanently ineligible for  
14 employment as a peace officer or to supervise peace  
15 officers for the state or any political subdivision of the  
16 state, if the person knowingly:

17

18           (i) Enforces or attempts to enforce any of the  
19 infringements described in W.S. 6-8-503(a); or

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21           (ii) Gives material aid and support to the  
22 efforts of others who enforce or attempt to enforce any of  
23 the infringements described in W.S. 6-8-503(a).

1

2 (b) Neither the state nor any political subdivision  
3 of the state shall employ as a peace officer or supervisor  
4 of peace officers any person who is ineligible for  
5 employment under subsection (a) of this section.

6

7 (c) Any person residing in or conducting business in  
8 the state who reasonably believes that a peace officer or  
9 supervisor of peace officers has taken action as a federal  
10 official, agent, employee or deputy or under the color of  
11 federal law under subsection (a) of this section that would  
12 render that person ineligible for employment shall have  
13 standing to pursue an action for declaratory judgment in  
14 the district court of the county where the action allegedly  
15 occurred or in the district court of Laramie county, with  
16 respect to the employment eligibility of the peace officer  
17 or the supervisor of peace officers under subsection (a) of  
18 this section.

19

20 (d) If a court determines that a peace officer or  
21 supervisor of peace officers has taken any action as a  
22 federal official, agent, employee or deputy or under the



1 color of federal law that would render him ineligible for  
2 employment under subsection (a) of this section:

3

4 (i) The peace officer or supervisor of peace  
5 officers shall immediately be terminated from his position;  
6 and

7

8 (ii) The state or political subdivision that  
9 employed the ineligible peace officer or supervisor of  
10 peace officers shall be required to pay the costs and  
11 expenses, including reasonable attorney's fees, associated  
12 with the declaratory judgment action that resulted in the  
13 finding of ineligibility.

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15 (e) Nothing in this section shall preclude a person's  
16 right of appeal under the laws of this state.

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18 **6-8-506. Legislative findings and declaration of**  
19 **authority.**

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21 (a) The legislature declares that the authority for  
22 the Second Amendment Preservation Act is the following:

23

1           (i) The Wyoming legislature is firmly resolved  
2 to support and defend the United States constitution  
3 against every aggression, whether foreign or domestic, and  
4 is duty bound to oppose every infraction of those  
5 principles that constitute the basis of the union of the  
6 states because only a faithful observance of those  
7 principles can secure the nation's existence and the public  
8 happiness;

9

10           (ii) Acting through the United States  
11 constitution, the people of the several states created the  
12 federal government to be their agent in the exercise of a  
13 few defined powers, while reserving to the state  
14 governments the power to legislate on matters that concern  
15 the lives, liberties and properties of citizens in the  
16 ordinary course of affairs;

17

18           (iii) The limitation of the federal government's  
19 power is affirmed under the tenth amendment to the United  
20 States constitution, which defines the total scope of  
21 federal power as being that which has been delegated by the  
22 people of the several states to the federal government, and  
23 all power not delegated to the federal government in the

1 United States constitution is reserved to the states  
2 respectively, or to the people themselves;

3

4 (iv) Whenever the federal government assumes  
5 powers that the people did not grant it in the United  
6 States constitution, its acts are unauthoritative, void and  
7 of no force;

8

9 (v) The several states of the United States  
10 respect the proper role of the federal government, but  
11 reject the proposition that such respect requires unlimited  
12 submission. If the government, created by a compact among  
13 the states, was the exclusive or final judge of the extent  
14 of the powers granted to it by the states through the  
15 United States constitution, the federal government's  
16 discretion, and not the United States constitution, would  
17 necessarily become the measure of those powers. To the  
18 contrary, as in all other cases of compacts among powers  
19 having no common judge, each party has an equal right to  
20 judge for itself as to whether infractions of the compact  
21 have occurred, as well as to determine the mode and measure  
22 of redress. Although the several states have granted  
23 supremacy to laws and treaties made under the powers

1 granted in the United States constitution, supremacy does  
2 not extend to various federal statutes, executive orders,  
3 administrative orders, court orders, rules, regulations or  
4 other actions that restrict or prohibit the manufacture,  
5 ownership and use of firearms, firearms accessories or  
6 ammunition exclusively within the borders of Wyoming.  
7 These statutes, executive orders, administrative orders,  
8 court orders, rules, regulations and other actions exceed  
9 the powers granted to the federal government except to the  
10 extent they are necessary and proper for governing and  
11 regulating land and naval forces of the United States or  
12 for organizing, arming and disciplining of militia forces  
13 actively employed in the service of the United States armed  
14 forces;

15

16 (vi) The people of the several states have given  
17 congress the power "to regulate commerce with foreign  
18 nations, and among the several states", but "regulating  
19 commerce" does not include the power to limit citizens'  
20 right to keep and bear arms in defense of their families,  
21 neighbors, persons or property, or to dictate as to what  
22 sort of arms and accessories law abiding citizens may buy,

1 sell, exchange or otherwise possess within the borders of  
2 Wyoming;

3  
4 (vii) The people of the several states have also  
5 granted congress the power "to lay and collect taxes,  
6 duties, imposts and excises, to pay the debts and provide  
7 for the common defense and general welfare of the United  
8 States" and "to make all laws which shall be necessary and  
9 proper for carrying into execution the foregoing powers,  
10 and all other powers vested by the United States  
11 constitution in the government of the United States, or in  
12 any department or office thereof". These constitutional  
13 provisions merely identify the means by which the federal  
14 government may execute its limited powers and shall not be  
15 so construed to grant unlimited power because to do so  
16 would be to destroy the carefully constructed equilibrium  
17 between the federal and state governments. Consequently,  
18 the Wyoming legislature rejects any claim that the taxing  
19 and spending powers of congress can be used to diminish in  
20 any way the right of the people to keep and bear arms;

21

22 (viii) The people of Wyoming have vested the  
23 Wyoming legislature with the authority to regulate the

1 manufacture, possession, exchange and use of firearms  
2 within the borders of Wyoming, subject only to the limits  
3 imposed by the second amendment to the United States  
4 constitution and article 1, section 24, of the Wyoming  
5 constitution; and

6

7 (ix) The Wyoming legislature strongly promotes  
8 responsible gun ownership and the proper enforcement of all  
9 state gun laws. The Wyoming legislature hereby condemns  
10 any unlawful transfer of firearms and the use of any  
11 firearm in any criminal or unlawful activity.

12

13 **Section 2.** This act is effective July 1, 2020.

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15

(END)