

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H3/17/21

# A Bill

HOUSE BILL 1386

5 By: Representatives Gonzales, Pilkington, McCollum, Dotson, B. Smith, Rye, Richmond, *Bryant,*  
6 *Bentley, Cavenaugh, Furman, M. Gray, Hawks, Hillman, Ladyman, Lundstrum, Milligan, Underwood,*  
7 *Womack*  
8 By: Senators B. Ballinger, T. Garner  
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## For An Act To Be Entitled

11 AN ACT TO BE KNOWN AS THE "ARKANSAS SECOND AMENDMENT  
12 LIBERTIES SAFEGUARDS ACT"; TO REQUIRE STATE AGENCIES  
13 AND PUBLIC OFFICERS TO DISREGARD UNCONSTITUTIONAL  
14 OVERREACHES OF POWER; TO PROTECT THE CONSTITUTIONAL  
15 RIGHTS OF ARKANSANS; AND FOR OTHER PURPOSES.  
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## Subtitle

19 TO BE KNOWN AS THE "ARKANSAS SECOND  
20 AMENDMENT LIBERTIES SAFEGUARDS ACT"; TO  
21 REQUIRE STATE AGENCIES AND PUBLIC  
22 OFFICERS TO DISREGARD UNCONSTITUTIONAL  
23 OVERREACHES OF POWER; AND TO PROTECT THE  
24 CONSTITUTIONAL RIGHTS OF ARKANSANS.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. DO NOT CODIFY. Scope.

30 (a)(1) The Tenth Amendment to the United States Constitution  
31 guarantees to the states and their people all powers not granted to the  
32 United States Government elsewhere in the United States Constitution and  
33 reserves to the State of Arkansas and its people certain powers as those  
34 powers were understood at the time that Arkansas was admitted into statehood  
35 in 1836.

36 (2) The guaranty of those powers is a matter of contract between



1 the State of Arkansas and its people and the United States as of the time  
2 that the compact with the United States was agreed upon and adopted by  
3 Arkansas and the United States in 1836.

4 (b)(1) The Ninth Amendment to the United States Constitution  
5 guarantees to the people rights not granted in the United States Constitution  
6 and reserves to the people of Arkansas certain rights as they were understood  
7 at the time that Arkansas was admitted into statehood in 1836.

8 (2) The guaranty of those rights is a matter of contract between  
9 the State of Arkansas and its people and the United States as of the time  
10 that the compact with the United States was agreed upon and adopted by  
11 Arkansas and the United States in 1836.

12 (c) The regulation of intrastate commerce is vested in the states  
13 under the Ninth and Tenth Amendments to the United States Constitution.

14 (d) The Second Amendment to the United States Constitution reserves  
15 the right to keep and bear arms to the people as that right was understood at  
16 the time that Arkansas was admitted into statehood in 1836, and the guaranty  
17 of the right is a matter of contract between the State of Arkansas and its  
18 people and the United States as of the time that the compact with the United  
19 States was agreed upon and adopted by Arkansas and the United States in 1836.

20 (e)(1) Arkansas Constitution, Article 2, § 5, clearly secures to  
21 Arkansas citizens and prohibits government interference with the right of  
22 individual Arkansas citizens to keep and bear arms.

23 (2) This constitutional protection is unchanged from the 1836  
24 Arkansas Constitution, which was approved by the United States Congress and  
25 the people of Arkansas, and the right exists as it was understood at the time  
26 that the compact with the United States was agreed upon and adopted by  
27 Arkansas and the United States in 1836.

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29 SECTION 2. Arkansas Code Title 5, Chapter 73, Subchapter 1, is amended  
30 to add an additional section to read as follows:

31 5-73-134. Unlawful enforcement of federal statutes.

32 (a) An employee of an agency of the State of Arkansas or any public  
33 servant of the State of Arkansas shall not knowingly enforce or attempt to  
34 enforce any act, law, statute, rule, or regulation of the United States  
35 Government created or effective on or after January 1, 2021, and relating to  
36 a personal firearm, firearm accessory, or ammunition that is owned or

1 manufactured commercially or privately in Arkansas so long as that firearm,  
2 accessory, or ammunition is within the borders of Arkansas.

3 (b) A state actor, local government, or political subdivision may not  
4 utilize any resource to enforce any act, law, statute, rule, or regulation of  
5 the United States Government created or effective on or after January 1,  
6 2021, and relating to a personal firearm, firearm accessory, or ammunition  
7 that is owned or manufactured commercially or privately in Arkansas.

8 (c) A person who violates this section upon conviction is guilty of a  
9 Class A misdemeanor.

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11 SECTION 3. Arkansas Code § 16-81-106(b), concerning authority to  
12 arrest without a warrant, is amended to read as follows:

13 (b) A certified law enforcement officer may make an arrest:

14 (1) In obedience to a warrant of arrest delivered to him or her;  
15 and

16 (2)(A) Without a warrant, ~~where~~ if a public offense is committed  
17 in his or her presence or ~~where~~ if he or she has reasonable grounds for  
18 believing that the person arrested has committed a felony.

19 (B) In addition to any other warrantless arrest authority  
20 granted by law or court rule, a certified law enforcement officer may arrest  
21 a person for a misdemeanor without a warrant if the officer has probable  
22 cause to believe that the person has committed battery upon another person,  
23 the officer finds evidence of bodily harm, and the officer reasonably  
24 believes that there is danger of violence unless the person alleged to have  
25 committed the battery is arrested without delay, except as provided in  
26 subsection (j) of this section.

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28 SECTION 4. Arkansas Code § 16-81-106(c)(1), concerning authority to  
29 arrest without a warrant, is amended to read as follows:

30 (c)(1) A certified law enforcement officer who is outside his or her  
31 jurisdiction may arrest without warrant a person who commits an offense  
32 within the officer's presence or view if the offense is a felony or a  
33 misdemeanor, except as provided in subsection (j) of this section.

34  
35 SECTION 5. Arkansas Code § 16-81-106, concerning authority to arrest  
36 without a warrant, is amended to add an additional subsection to read as

1 follows:

2 (j) A certified law enforcement officer shall not make an arrest under  
3 § 5-73-134 without a warrant.

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5 SECTION 6. Arkansas Code Title 25, Chapter 16, Subchapter 7, is  
6 amended to add an additional section to read as follows:

7 25-16-717. Defense of Arkansas resident in firearm cases.

8 (a) The Attorney General shall defend a resident of Arkansas who is  
9 prosecuted by the United States Government after January 1, 2021, for any  
10 federal law, rule, regulation, or order relating to the manufacture, sale,  
11 transfer, or possession of a firearm, a firearm accessory, or ammunition  
12 owned or manufactured if the person was acting in accordance with § 5-73-134  
13 or § 12-15-101.

14 (b) If the defendant retains private counsel in his or her defense  
15 against prosecution, the Attorney General shall be relieved as counsel.

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17 */s/Gonzales*  
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