

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

# A Bill

SENATE BILL 59

5 By: Senators B. Ballinger, T. Garner  
6 By: Representatives Gonzales, Pilkington, McCollum, Dotson  
7

## For An Act To Be Entitled

9 AN ACT TO REQUIRE STATE AGENCIES AND PUBLIC OFFICERS  
10 TO DISREGARD UNCONSTITUTIONAL OVERREACHES OF POWER;  
11 TO PROTECT THE CONSTITUTIONAL RIGHTS OF ARKANSANS; TO  
12 PREVENT THE FEDERAL GOVERNMENT FROM REGULATING THE  
13 MANUFACTURE, ASSEMBLY, AND TRADE OF FIREARMS WITHIN  
14 THE BORDERS OF ARKANSAS; AND FOR OTHER PURPOSES.  
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## Subtitle

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18 THE ARKANSAS SECOND AMENDMENT LIBERTIES  
19 SAFEGUARDS ACT.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. DO NOT CODIFY. Title.

25 This act shall be known and may be cited as the "Arkansas Second  
26 Amendment Liberties Safeguard Act".  
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28 SECTION 2. Arkansas Code Title 4 is amended to add an additional  
29 chapter to read as follows:

30 Chapter 21 – Jurisdiction Over Firearm Regulation

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32 4-21-101. Scope.

33 (a)(1) The Tenth Amendment to the United States Constitution  
34 guarantees to the states and their people all powers not granted to the  
35 United States Government elsewhere in the United States Constitution and  
36 reserves to the State of Arkansas and its people certain powers as those



1 powers were understood at the time that Arkansas was admitted into statehood  
2 in 1836.

3 (2) The guaranty of those powers is a matter of contract between  
4 the State of Arkansas and its people and the United States as of the time  
5 that the compact with the United States was agreed upon and adopted by  
6 Arkansas and the United States in 1836.

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

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

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

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

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

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

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32 4-21-102. Definitions.

33 As used in this chapter:

34 (1) "Borders of Arkansas" means the boundaries of Arkansas  
35 described in the Arkansas Constitution, Article 1;

36 (2) "Firearms accessory" means an item that is used in

1 conjunction with or mounted upon a firearm but is not essential to the basic  
2 function of a firearm, including without limitation telescopic or laser  
3 sights, magazines, flash or sound suppressors, folding or aftermarket stocks  
4 and grips, speedloaders, ammunition carriers, and lights for target  
5 illumination;

6 (3) "Generic and insignificant part" means a small component  
7 used in the manufacture of a firearm, including without limitation a spring,  
8 a screw, a nut, or a pin; and

9 (4) "Manufactured" means that a firearm, a firearm accessory, or  
10 ammunition has been created from basic materials for functional usefulness,  
11 including without limitation forging, casting, machining, or other processes  
12 for working materials.

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14 4-21-103. Prohibitions.

15 (a) A personal firearm, a firearm accessory, or ammunition that is  
16 manufactured commercially or privately in Arkansas and that remains within  
17 the borders of Arkansas is not subject to federal law or federal regulation,  
18 including registration, under the authority of the United States Congress to  
19 regulate interstate commerce, as those items have not traveled in interstate  
20 commerce.

21 (b)(1) This chapter applies to a firearm, a firearm accessory, or  
22 ammunition that is manufactured in Arkansas from basic materials and that can  
23 be manufactured without the inclusion of any significant parts imported from  
24 another state.

25 (2) Generic and insignificant parts that have other  
26 manufacturing or consumer product applications are not firearms, firearms  
27 accessories, or ammunition that are imported into Arkansas and incorporation  
28 into a firearm, a firearm accessory, or ammunition manufactured in Arkansas  
29 do not subject the firearm, firearm accessory, or ammunition to federal  
30 regulation.

31 (3) Basic materials, such as unmachined steel and unshaped wood,  
32 are not firearms, firearms accessories, or ammunition and are not subject to  
33 congressional authority to regulate firearms, firearms accessories, and  
34 ammunition under interstate commerce as if they were actually firearms,  
35 firearms accessories, or ammunition.

36 (4) The authority of United States Congress to regulate

1 interstate commerce in basic materials does not include authority to regulate  
2 firearms, firearms accessories, and ammunition made in Arkansas from the  
3 materials contained in this subsection as long as the firearm is not taken or  
4 sold outside the boundaries of the state of Arkansas.

5 (c) Firearms accessories that are imported into Arkansas from another  
6 state and that are subject to federal regulation as being in interstate  
7 commerce do not subject a firearm to federal regulation under interstate  
8 commerce because they are attached to or used in conjunction with a firearm  
9 in Arkansas.

10 (d) This section does not apply to:

11 (1) A firearm that cannot be carried and used by one (1) person;

12 (2) A firearm that has a bore diameter greater than one and one-  
13 half inches (1 1/2") and that uses smokeless powder, not black powder, as a  
14 propellant;

15 (3) Ammunition with a projectile that explodes using an  
16 explosion of chemical energy after the projectile leaves the firearm; or

17 (4) Other than shotguns, a firearm that discharges two (2) or  
18 more projectiles with one (1) activation of the trigger or other firing  
19 device.

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21 4-21-104. Marketing of firearms.

22 A firearm manufactured or sold in Arkansas that is subject to this  
23 chapter must have the words "Made in Arkansas" clearly and conspicuously  
24 stamped on a central metallic part, such as the receiver or frame.

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26 SECTION 3. Arkansas Code Title 5, Chapter 73, Subchapter 1, is amended  
27 to add an additional section to read as follows:

28 5-73-134. Unlawful enforcement of federal statutes.

29 (a) An employee of an agency of the State of Arkansas, any public  
30 servant of the State of Arkansas, or an agent or employee of the United  
31 States Government shall not knowingly enforce or attempt to enforce any act,  
32 law, statute, rule, or regulation of the United States Government created or  
33 effective on or after January 1, 2021, and relating to a personal firearm,  
34 firearm accessory, or ammunition that is owned or manufactured commercially  
35 or privately in Arkansas so long as that firearm, accessory, or ammunition is  
36 within the borders of Arkansas.

1       (b) A person who violates this section upon conviction is guilty of a  
2 Class A misdemeanor.

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4       SECTION 4. Arkansas Code Title 12, Chapter 15, Subchapter 1, is  
5 amended to add an additional section to read as follows:

6       12-15-101. Prohibition against federal firearm regulation.

7       A federal law, rule, regulation, or order created or effective on or  
8 after January 1, 2021, is unenforceable within the borders of Arkansas if the  
9 federal law, rule, regulation, or order attempts to:

10       (1) Prohibit or restrict ownership of a semiautomatic firearm or  
11 any magazine of a firearm; or

12       (2) Require any firearm, magazine, or other firearm accessory to  
13 be registered in any manner.

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15       SECTION 5. Arkansas Code § 16-81-106(b) and (c)(1), concerning  
16 authority to arrest without a warrant, are amended to read as follows:

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

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

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

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

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

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36       SECTION 6. Arkansas Code § 16-81-106, concerning authority to arrest

1 without a warrant, is amended to add an additional subsection to read as  
2 follows:

3 (j) A certified law enforcement officer shall not make an arrest under  
4 § 5-73-134 without a warrant.

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

8 25-16-717. Defense of an Arkansas resident in firearm cases.

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

15 (b) If the defendant retains private counsel in his or her defense  
16 against prosecution, the Arkansas Public Defender Commission shall be  
17 relieved as counsel.

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