

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

# A Bill

SENATE BILL 716

5 By: Senator T. Garner  
6

## For An Act To Be Entitled

8 AN ACT TO BE KNOWN AS THE "ARKANSAS SOVEREIGNTY ACT  
9 OF 2021"; CONCERNING THE RIGHT TO BEAR ARMS IN THE  
10 STATE OF ARKANSAS; CONCERNING OTHER CONSTITUTIONAL  
11 RIGHTS; AND FOR OTHER PURPOSES.  
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## Subtitle

14 TO BE KNOWN AS THE "ARKANSAS SOVEREIGNTY  
15 ACT OF 2021"; CONCERNING THE RIGHT TO  
16 BEAR ARMS IN THE STATE OF ARKANSAS; AND  
17 CONCERNING OTHER CONSTITUTIONAL RIGHTS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 1 is amended to add an additional  
24 chapter to read as follows:

### CHAPTER 6

#### ARKANSAS SOVEREIGNTY ACT OF 2021

##### 1-6-101. Title.

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28 This chapter shall be known and may be cited as the "Arkansas  
29 Sovereignty Act of 2021".  
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##### 1-6-102. Legislative findings.

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32 The General Assembly finds that:  
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34 (1) The State of Arkansas is firmly resolved to support and  
35 defend the United States Constitution against every aggression, either  
36 foreign or domestic, and the General Assembly is duty bound to watch over and



1 oppose every infraction of those principles that constitute the basis of the  
2 United States because only a faithful observance of those principles can  
3 secure the nation's existence and the public happiness;

4 (2) Acting through the United States Constitution, the people of  
5 the several states created the United States Government to be their agent in  
6 the exercise of a few defined powers, while reserving to the state  
7 governments the power to legislate on matters that concern the lives,  
8 liberties, and properties of citizens in the ordinary course of affairs;

9 (3) The limitation of the United States Government's power is  
10 affirmed under the Tenth Amendment to the United States Constitution, which  
11 defines the total scope of federal power as being that which has been  
12 delegated by the people of the several states to the United States  
13 Government, and all power not delegated to the United States Government in  
14 the United States Constitution is reserved to the states respectively, or to  
15 the people themselves;

16 (4) Whenever the United States Government assumes powers that  
17 the people did not grant it in the United States Constitution, its acts are  
18 unauthoritative, void, and of no force;

19 (5)(A) The several states of the United States are not united on  
20 the principle of unlimited submission to the United States Government.

21 (B) The United States Government created by the United  
22 States Constitution is not the exclusive or final judge of the extent of the  
23 powers granted to it by the United States Constitution, because that would  
24 have made the United States Government's discretion, and not the United  
25 States Constitution, the measure of those powers.

26 (C) To the contrary, as in all other cases of compacts  
27 among powers having no common judge, each party has an equal right to judge  
28 itself, as well of infractions as of the mode and measure of redress.

29 (D)(i) Although the several states have granted supremacy  
30 to laws and treaties made under the powers granted in the United States  
31 Constitution, such supremacy does not apply to various federal statutes,  
32 orders, rules, regulations, or other actions that restrict or prohibit the  
33 manufacture, ownership, and use of firearms, firearm accessories, or  
34 ammunition exclusively within the borders of Arkansas.

35 (ii) Such statutes, orders, rules, regulations, and  
36 other actions exceed the powers granted to the United States Government

1 except to the extent that they are necessary and proper for the United States  
2 Government and regulation of the land and naval forces of the United States  
3 Armed Forces or for the organizing, arming, and disciplining of militia  
4 forces actively employed in the service of the United States Armed Forces;

5 (6) The people of the several states have given the United  
6 States Congress the power "to regulate commerce with foreign nations, and  
7 among the several states, and with the Indian tribes", but regulating  
8 commerce does not include the power to limit citizens' right to keep and bear  
9 arms in defense of their families, neighbors, persons, or property or to  
10 dictate what sort of arms and accessories law-abiding, mentally competent  
11 Arkansas citizens may buy, sell, exchange, or otherwise possess within the  
12 borders of this state;

13 (7)(A) The people of the several states have also given the  
14 United States Congress the power "to lay and collect taxes, duties, imposts  
15 and excises, to pay the debts and provide for the common defense and general  
16 welfare of the United States" and "to make all laws which shall be necessary  
17 and proper for carrying into execution ... the powers vested by this  
18 Constitution in the Government of the United States, or in any department or  
19 officer thereof".

20 (B)(i) These federal constitutional provisions merely  
21 identify the means by which the United States Government may execute its  
22 limited powers and ought not to be so construed as themselves to give  
23 unlimited powers because to do so would be to destroy the balance of power  
24 between the United States Government and the state governments.

25 (ii) The General Assembly denies any claim that the  
26 taxing and spending powers of the United States Congress can be used to  
27 diminish in any way the people's right to keep and bear arms; and

28 (8) The people of Arkansas have vested the General Assembly with  
29 the authority to regulate the manufacture, possession, exchange, and use of  
30 firearms within this state's borders, subject only to the limits imposed by  
31 the Second Amendment to the United States Constitution and Arkansas  
32 Constitution, Article 2, § 5.

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34 1-6-103. Firearm rights.

35 (a) All acts, laws, orders, rules, and regulations of the United  
36 States Government, whether past, present, or future, that infringe on the

1 people's right to keep and bear arms as guaranteed by the Second Amendment to  
2 the United States Constitution and Arkansas Constitution, Article 2, § 5, are  
3 invalid in this state, shall not be recognized by this state, are  
4 specifically rejected by this state, and shall be considered null and void  
5 and of no effect in this state.

6 (b) Such federal acts, laws, orders, rules, and regulations that are  
7 null and void in this state under subsection (a) of this section include  
8 without limitation:

9 (1) The National Firearms Act, 26 U.S.C. § 5801 et seq., as it  
10 existed on April 23, 2021; and

11 (2) The Gun Control Act of 1968, 18 U.S.C. § 921 et seq., with  
12 the exception of the following sections as they existed on April 23, 2021:

13 (A) 18 U.S.C. § 922(g), (j), (k), and (o); and

14 (B) 18 U.S.C. § 924(e), (h), and (j);

15 (3) Any tax, levy, fee, or stamp imposed on firearms, firearm  
16 accessories, or ammunition not common to all other goods and services that  
17 could have a chilling effect on the purchase or ownership of those items by  
18 law-abiding citizens, except for an existing tax, levy, fee, or stamp imposed  
19 under 26 U.S.C. § 4181 from which revenues are authorized to be appropriated  
20 under the Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. § 669 et  
21 seq., and any future tax, levy, fee, or stamp imposed by congressional  
22 amendment of the Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. § 669  
23 et seq.;

24 (4) Any registering or tracking of firearms, firearm  
25 accessories, or ammunition that could have a chilling effect on the purchase  
26 or ownership of those items by law-abiding citizens;

27 (5) Any registering or tracking of the owners of firearms,  
28 firearm accessories, or ammunition that could have a chilling effect on the  
29 purchase or ownership of those items by law-abiding citizens;

30 (6) Any act forbidding the possession, ownership, or use or  
31 transfer of any type of firearm, firearm accessory, or ammunition by law-  
32 abiding citizens; and

33 (7) Any act ordering the confiscation of firearms, firearm  
34 accessories, or ammunition from law-abiding citizens.

35 (c) It is the duty of the courts and law enforcement agencies of this  
36 state to protect the rights of law-abiding citizens to keep and bear arms

1 within the borders of this state from the infringements described under  
2 subsection (b) of this section.

3 (d)(1) The following persons shall not enforce or assist federal  
4 agencies or officers in the enforcement of any federal statute, executive  
5 order, or federal agency directive that conflicts with Arkansas Constitution,  
6 Article 2, § 5, or any Arkansas law:

7 (A) A public officer or employee of this state;

8 (B) A law enforcement officer; or

9 (C) A representative, agent, or employee of a  
10 municipality, a county, or the state, acting under the color of law, with all  
11 the rights, grants, and assignments of a law enforcement officer in the  
12 state.

13 (2) The persons and prohibitions described under subdivision  
14 (d)(1) of this section include personnel, agents of the state or local  
15 government, including volunteers, the use of tax dollars, and persons having  
16 authority to enforce or attempt to enforce any of the infringements on the  
17 right to keep and bear arms described under subsection (b) of this section.

18 (3) The following sections of the Gun Control Act of 1968, 18  
19 U.S.C. § 921 et seq., as they existed on April 23, 2021, do not conflict with  
20 Arkansas Constitution, Article 2, § 5, or any other state law:

21 (A) 18 U.S.C. § 922(g), (j), (k), and (o); and

22 (B) 18 U.S.C. § 924(e), (h), and (j).

23 (e)(1) A person described under subsection (d)(1) of this section who  
24 knowingly assists or provides support or information to federal agents or  
25 agencies in the enforcement of federal law, an executive order, or a federal  
26 agency directive that conflicts with Arkansas Constitution, Article 2, § 5,  
27 or other Arkansas law is upon conviction guilty of an unclassified  
28 misdemeanor.

29 (2) The penalty for violating this subsection is a fine of five  
30 hundred dollars (\$500) for each offense.

31 (f)(1) A supervisory officer or elected official who knowingly directs  
32 any law enforcement officer to assist a federal law enforcement agency in  
33 violating the rights of a person as described under subsection (d) of this  
34 section is upon conviction guilty of an unclassified misdemeanor.

35 (2) The penalty for violating this subsection is a fine of not  
36 less than five hundred dollars (\$500) nor more than one thousand dollars

1 (\$1,000) for each offense.

2 (g) A person described under subsection (d) of this section who  
3 knowingly attempts to enforce any of the infringements on the right to keep  
4 and bear arms described under subsection (b) of this section forfeits all  
5 immunity otherwise provided him or her under the laws of this state.

6 (h) An Arkansas citizen who has been subject to an effort to enforce  
7 any of the infringements on the right to keep and bear arms described under  
8 subsection (b) of this section shall have a cause of action, including  
9 declaratory judgment and for monetary damages, against a person or entity  
10 attempting such enforcement.

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12 1-6-104. Enumerated rights.

13 (a) All federal acts, laws, orders, rules, and regulations, whether  
14 past, present, or future, that infringe on the following enumerated rights  
15 found in the Arkansas Constitution are invalid in this state, shall not be  
16 recognized by this state, are specifically rejected by this state, and shall  
17 be considered null and void and of no effect in this state:

18 (1) The right to peacefully assemble as found in Arkansas  
19 Constitution, Article 2, § 4;

20 (2) The right to enjoy freedom of speech and of the press as  
21 found in Arkansas Constitution, Article 2, § 6;

22 (3) The right to remain free from self-incrimination and have a  
23 right to due process as found in Arkansas Constitution, Article 2, § 8;

24 (4) The right to be free from excessive bail, cruel and unusual  
25 punishment, and unreasonable detention as found in Arkansas Constitution,  
26 Article 2, § 9;

27 (5) The right to be free from unreasonable searches and seizures  
28 as found in Arkansas Constitution, Article 2, § 15;

29 (6) The right to be free from ex post facto laws as found in  
30 Arkansas Constitution, Article 2, § 17;

31 (7) The right not to be taken, imprisoned, disseized of his or  
32 her estate, freehold, liberties or privileges, outlawed, or in any manner  
33 destroyed, or deprived of his or her life, liberty or property, except by the  
34 judgment of his or her peers, or the law of the land as found in Arkansas  
35 Constitution, Article 2, § 21; and

36 (8) The right to worship as found in Arkansas Constitution,

1 Article 2, § 24.

2 (b) It is the duty of the courts and of the law enforcement agencies  
3 of this state to protect the rights of law-abiding citizens within the border  
4 of this state from infringement of any of the rights enumerated under this  
5 section and as found in Arkansas Constitution, Article 2.

6 (c)(1) The following persons shall not enforce or assist federal  
7 agencies or officers in the enforcement of any federal statute, executive  
8 order, or federal agency directive that conflicts with Arkansas Constitution,  
9 Article 2, § 4, or any Arkansas law:

10 (A) A public officer or employee of this state;

11 (B) A law enforcement officer; or

12 (C) A representative, agent, or employee of a  
13 municipality, a county, or the state, acting under the color of law, with all  
14 the rights, grants, and assignments of a law enforcement officer in the  
15 state.

16 (2) The persons and prohibitions described under subdivision  
17 (c)(1) of this section include personnel, agents of the state or local  
18 government, including volunteers, the use of tax dollars, and persons having  
19 authority to enforce or attempt to enforce any of the infringements on the  
20 rights described under subsection (a) of this section.

21 (d)(1) A person described under subsection (c) of this section who  
22 knowingly assists or provides support or information to federal agents or  
23 agencies in the enforcement of federal law, an executive order, or a federal  
24 agency directive that conflicts with the rights outlined under subsection (a)  
25 of this section or Arkansas law is upon conviction guilty of an unclassified  
26 misdemeanor.

27 (2) The penalty for violating this subsection is a fine of five  
28 hundred dollars (\$500) for each offense.

29 (e)(1) A supervisory officer or elected official who knowingly directs  
30 any law enforcement officer to assist a federal law enforcement agency in  
31 violating the rights described under subsection (a) of this section is upon  
32 conviction guilty of an unclassified misdemeanor.

33 (2) The penalty for violating the rights described under  
34 subsection (a) of this section is a fine of not less than five hundred  
35 dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense.

36 (f) A person described under subsection (c) of this section who

1 knowingly attempts to enforce any of the infringements on the rights  
2 described under subsection (a) of this section forfeits any immunity  
3 otherwise provided him or her under the laws of this state.

4 (g) A person who is an official, agent, or employee of the United  
5 States Government who knowingly enforces or attempts to enforce any  
6 infringements under subsection (a) of this section upon conviction is guilty  
7 of a Class A misdemeanor.

8 (h) An Arkansas citizen who has been subject to an effort to enforce  
9 any of the infringements on the rights described under subsection (a) of this  
10 section shall have a cause of action, including declaratory judgment and for  
11 monetary damages, against a person or entity attempting such enforcement.

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