

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 194

Introduced by Halloran, 33; Aguilar, 35; Ballard, 21; Bostelman, 23;
Brandt, 32; Brewer, 43; Briese, 41; Clements, 2; DeKay, 40;
Dorn, 30; Erdman, 47; Hansen, B., 16; Hardin, 48;
Holdcroft, 36; Jacobson, 42; Linehan, 39; Lippincott, 34;
Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Slama, 1.

Read first time January 09, 2023

Committee:

- 1 A BILL FOR AN ACT relating to government; to adopt the Second Amendment
- 2 Preservation Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Second Amendment Preservation Act.

3 Sec. 2. The Legislature finds that:

4 (1) The right to keep and bear arms is a fundamental individual
5 right that shall not be infringed;

6 (2) It is the intent of the Legislature in enacting the Second
7 Amendment Preservation Act to protect public employees, including law
8 enforcement officers, from being directed, through any federal firearms
9 law in effect on or after the effective date of this act, to violate
10 their oath of office and individual rights affirmed under the Second
11 Amendment to the Constitution of the United States and Article 1, section
12 1, of the Constitution of Nebraska;

13 (3) Pursuant to and in furtherance of the principles of federalism
14 enshrined in the Constitution of the United States, the federal
15 government shall not commandeer public employees to participate in the
16 enforcement or facilitation of any federal firearms law;

17 (4) This right to be free from the commandeering hand of the federal
18 government has been most notably recognized by the Supreme Court of the
19 United States in 1997 in Printz v. United States when the court held "The
20 Federal Government may neither issue directives requiring the States to
21 address particular problems, nor command the States' officers, or those
22 of their political subdivisions, to administer or enforce a federal
23 regulatory program"; and

24 (5) The anti-commandeering principles recognized by the Supreme
25 Court of the United States in Printz v. United States are consonant with
26 the advice of James Madison who, in Federalist No. 46, advised a "refusal
27 to co-operate with the officers of the Union" in response to either
28 unconstitutional federal measures or constitutional but unpopular federal
29 measures.

30 Sec. 3. For purposes of the Second Amendment Preservation Act:

31 (1) Federal firearms law means any federal act, law, order, rule, or

1 regulation regarding a firearm, firearm accessory, or ammunition if the
2 substantial equivalent of such act, law, order, rule, or regulation does
3 not exist under the law of this state; and

4 (2) Public employee means any state officer or any official,
5 employee, or agent of any state agency or political subdivision.

6 Sec. 4. Except when necessary to comply with an order of a court,
7 no agency or political subdivision of this state or public employee
8 acting in such employee's official capacity shall:

9 (1) Participate in any way in the enforcement of any federal
10 firearms law; or

11 (2) Utilize any public funds to engage in any activity that aids a
12 federal agency, federal agent, or corporation providing services to the
13 federal government in the enforcement of, or any investigation pursuant
14 to the enforcement of, any federal firearms law.

15 Sec. 5. (1) Any public employee who knowingly violates the Second
16 Amendment Preservation Act shall:

17 (a) For a first violation, be liable for a civil penalty not to
18 exceed three thousand dollars. Such civil penalty shall be assessed in a
19 civil action brought for such purpose and shall be remitted to the State
20 Treasurer for distribution in accordance with Article VII, section 5, of
21 the Constitution of Nebraska. A civil penalty assessed and unpaid under
22 this section shall constitute a debt to the State of Nebraska which may
23 be collected in the manner of a lien foreclosure or sued for and
24 recovered in any proper form of action in the name of the State of
25 Nebraska in the district court of the county in which the agent or
26 employee resides or owns property; and

27 (b) For a second or subsequent violation, be guilty of a Class I
28 misdemeanor.

29 (2) An action under this section shall be brought within two years
30 of the alleged violation in the district court of the county in which the
31 violation occurred or in which the agent or employee resides.

1 (3) For any violation of this section, the Attorney General or
2 county attorney shall bring and prosecute the appropriate civil or
3 criminal proceeding.

4 Sec. 6. (1) A political subdivision shall not adopt a rule, order,
5 ordinance, resolution, or policy under which the political subdivision
6 intentionally violates the Second Amendment Preservation Act.

7 (2) When notified of an alleged violation of this section, the
8 Attorney General or county attorney shall institute a civil action in the
9 district court of the county of such political subdivision to determine
10 if such violation has occurred. The court may grant preliminary or
11 permanent injunctive relief as appropriate. Upon a final judicial
12 determination that such violation has occurred, the court shall enter an
13 order directing the State Treasurer to withhold all state funds from such
14 political subdivision for the fiscal year following the year of such
15 determination. Such withheld funds shall lapse to the General Fund.

16 Sec. 7. If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.