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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 893 Session of  
2023

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INTRODUCED BY JOZWIAK, CAUSER, ROWE, HAMM, STAATS, STEHR,  
SCHEUREN, SMITH, LEADBETER, SCHMITT, COOK, MOUL, STRUZZI,  
WARNER, GLEIM, ZIMMERMAN, KEEFER, RIGBY, ARMANINI, KRUPA,  
FEE, M. BROWN, IRVIN, GREINER, KERWIN, BERNSTINE, JAMES,  
FINK, KAUFFMAN AND BARTON, APRIL 12, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 12, 2023

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AN ACT

1 Providing for Second Amendment Preservation Act, for limitation  
2 of Federal law and for private cause of action; and imposing  
3 a penalty.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Second  
8 Amendment Preservation Act.

9 Section 2. Findings and declarations.

10 The General Assembly finds and declares as follows:

11 (1) The General Assembly is firmly resolved to support  
12 and defend the Constitution of the United States against  
13 every aggression, foreign or domestic, and the General  
14 Assembly is duty bound to watch over and oppose every  
15 infraction of those principles which constitute the basis of  
16 the Union of the States, because only a faithful observance  
17 of those principles can secure the existence of the nation

1 and public happiness.

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

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

17 (4) When the Federal Government assumes powers that the  
18 people did not grant in the Constitution, the Federal  
19 Government's acts are unauthoritative, void and without  
20 force.

21 (5) The several states of the United States are not  
22 united on the principle of unlimited submission to the  
23 Federal Government. If the government created by the compact  
24 among the states were the exclusive or final judge of the  
25 extent of the powers granted by the Constitution, the Federal  
26 Government's discretion, and not the Constitution, would be  
27 the measure of those powers. To the contrary, as in all other  
28 cases of compacts among powers having no common judge, each  
29 party has an equal right to judge itself, as well as  
30 infractions of the mode and measure of redress. Although the

1 several states have granted supremacy to laws and treaties  
2 made pursuant to the powers granted in the Constitution,  
3 supremacy does not apply to various Federal statutes, orders,  
4 rules, regulations or other actions which restrict or  
5 prohibit the manufacture, ownership and use of firearms,  
6 firearm accessories or ammunition exclusively within the  
7 borders of this Commonwealth and those statutes, orders,  
8 rules, regulations and other actions exceed the powers  
9 granted to the Federal Government except to the extent  
10 necessary and proper for the government and regulation of the  
11 land and naval forces of the United States or for the  
12 organizing, arming and disciplining of militia forces  
13 actively employed in the service of the United States Armed  
14 Forces.

15 (6) The people of the several states have given the  
16 Congress of the United States the power "to regulate commerce  
17 with foreign nations, and among the several states, and with  
18 the Indian tribes," but "regulating commerce" does not  
19 include the power to limit citizens' right to keep and bear  
20 arms in defense of their families, neighbors, persons or  
21 property or to dictate to what sort of arms and accessories  
22 law-abiding mentally competent residents of this Commonwealth  
23 may buy, sell, exchange or otherwise possess within the  
24 borders of this Commonwealth.

25 (7) The people of the several states have also given  
26 Congress the power "to lay and collect taxes, duties,  
27 imports, and excises, to pay the debts, and provide for the  
28 common defense and general welfare of the United States" and  
29 "to make all laws which shall be necessary and proper for  
30 carrying into execution the powers vested by the Constitution

1 in the government of the United States, or in any department  
2 or officer thereof." These constitutional provisions merely  
3 identify the means by which the Federal Government may  
4 execute its limited powers and does not give unlimited powers  
5 because to do so would be to destroy the balance of power  
6 between the Federal Government and the state governments. The  
7 General Assembly denies any claim that the taxing and  
8 spending powers of Congress can be used to diminish in any  
9 way the people's right to keep and bear arms.

10 (8) The citizens of this Commonwealth have vested the  
11 General Assembly with the authority to regulate the  
12 manufacture, possession, exchange and use of firearms within  
13 the borders of this Commonwealth, subject only to the limits  
14 imposed by the Second Amendment to the Constitution of the  
15 United States and the Constitution of Pennsylvania.

16 Section 3. Limitation of Federal law.

17 The following apply:

18 (1) All Federal acts, laws, orders, rules and  
19 regulations, whether past, present or future, which infringe  
20 on the people's right to keep and bear arms as guaranteed by  
21 the Second Amendment to the Constitution of the United States  
22 and section 21 of Article I of the Constitution of  
23 Pennsylvania shall:

24 (i) be invalid in this Commonwealth;

25 (ii) not be recognized by this Commonwealth;

26 (iii) be specifically rejected by this Commonwealth;

27 and

28 (iv) be considered null and void and without effect  
29 in this Commonwealth.

30 (2) The Federal acts, laws, orders, rules and

1 regulations subject to this section shall include, but are  
2 not limited to:

3 (i) 18 U.S.C. Ch. 44 (relating to firearms).

4 (ii) 26 U.S.C. Ch. 53 (relating to machine guns,  
5 destructive devices, and certain other firearms).

6 (iii) Any tax, levy, fee or stamp imposed on  
7 firearms, firearm accessories or ammunition not common to  
8 all other goods and services which could have a chilling  
9 effect on the purchase or ownership of those items by a  
10 law-abiding citizen.

11 (iv) Any registering or tracking of firearms,  
12 firearm accessories or ammunition which could have a  
13 chilling effect on the purchase or ownership of those  
14 items by a law-abiding citizen.

15 (v) Any registering or tracking of the owners of  
16 firearms, firearm accessories or ammunition which could  
17 have a chilling effect on the purchase or ownership of  
18 those items by a law-abiding citizen.

19 (vi) Any act forbidding the possession, ownership or  
20 use or transfer of any type of firearm, firearm accessory  
21 or ammunition by a law-abiding citizen.

22 (vii) Any act ordering the confiscation of firearms,  
23 firearm accessories or ammunition from a law-abiding  
24 citizen.

25 Section 4. Enforcement.

26 It shall be the duty of the courts and law enforcement  
27 agencies of this Commonwealth to protect the rights of law-  
28 abiding citizens to keep and bear arms within the borders of  
29 this Commonwealth and enforce the provisions of section 3.

30 Section 5. Prohibitions.

1 A public officer or employee of this Commonwealth may not  
2 enforce or attempt to enforce any of the infringements on the  
3 right to keep and bear arms included in section 3. Any official,  
4 agent or employee of the United States Government who enforces  
5 or attempts to enforce any of the infringements on the right to  
6 keep and bear arms included in section 3 shall be guilty of a  
7 misdemeanor punishable by up to five years' imprisonment and a  
8 fine of up to \$10,000.

9 Section 6. Private cause of action.

10 Any citizen who has been subject to an effort to enforce any  
11 of the infringements on the right to keep and bear arms included  
12 in section 3 shall have a private cause of action for  
13 declaratory judgment and for damages against any person or  
14 entity attempting the enforcement.

15 Section 7. Effective date.

16 This act shall take effect in 60 days.