

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

912V0486

SENATE BILL NO. 133

Introduced by: Senators Jensen, Begalka, Lederman, Maher, Novstrup (Al), Omdahl, Otten (Ernie), and Rampelberg and Representatives Nelson, Craig, Greenfield, Haggar (Don), Hoffman, Kopp, May, Olson (Betty), Russell, Stalzer, Steele, and Wick

1 FOR AN ACT ENTITLED, An Act to clarify certain statutes prohibiting political subdivisions
2 from restricting firearms, to assert the sovereignty of the State of South Dakota with regards
3 to the regulation of arms and weapons, and to provide recourse and penalties for violations.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The state reserves to itself the entire field of regulation, within the geographical
6 boundaries of the state, of all arms and weapons, including the possession, use, discharge,
7 transportation, purchase, acquisition, sale, transfer, ownership, manufacture, taxation, and repair
8 of firearms, ammunition, and their components.

9 Section 2. That § 7-18A-36 be amended to read as follows:

10 7-18A-36. No county may pass any ordinance, regulation, or executive order, or take any
11 other action, that restricts possession, use, discharge in accordance with § 22-5-9, transportation,
12 purchase, acquisition, sale, transfer, ownership, taxation, or repair of firearms or
13 ammunition or their components. Any ordinances, regulations, or executive orders prohibited
14 by this section are null and void.



1 Any agent, employee, or person acting under the authority of any governmental entity who
2 violates this section is guilty of a Class 5 felony and is barred from holding any office of trust
3 in this state or as a representative of this state to the government of the United States.

4 Section 3. That § 8-5-13 be amended to read as follows:

5 8-5-13. No township may pass any ordinance, regulation, or executive order, or take any
6 other action, that restricts possession, use, discharge in accordance with § 22-5-9, transportation,
7 purchase, acquisition, sale, transfer, ownership, manufacture, taxation, or repair of firearms or
8 ammunition or their components. Any ordinances, regulation, or executive orders prohibited by
9 this section are null and void.

10 Any agent, employee, or person acting under the authority of any governmental entity who
11 violates this section is guilty of a Class 5 felony and is barred from holding any office of trust
12 in this state or as a representative of this state to the government of the United States.

13 Section 4. That § 9-19-20 be amended to read as follows:

14 9-19-20. No municipality may pass any ordinance, regulation, or executive order, or take any
15 other action, that restricts possession, use, discharge in accordance with § 22-5-9, transportation,
16 purchase, acquisition, sale, transfer, ownership, manufacture, taxation, or repair of firearms or
17 ammunition or their components. Any ordinances, regulations, or executive orders prohibited
18 by this section are null and void.

19 Any agent, employee, or person acting under the authority of any governmental entity who
20 violates this section is guilty of a Class 5 felony and is barred from holding any office of trust
21 in this state or as a representative of this state to the government of the United States.

22 Section 5. Notwithstanding the provisions of § 7-18A-36 or 9-19-20, counties and
23 municipalities may enact zoning ordinances to regulate the manufacture of arms and
24 ammunition, pursuant to chapter 11-4, if such regulation does not restrict or hamper the

1 manufacture more than any other comparable industry within the county or municipality.

2 Section 6. Notwithstanding the provisions of § 7-18A-36, 8-5-13, or 9-19-20, counties,
3 townships, and municipalities may enact ordinances, rules, and regulations governing the use
4 or possession of arms by individuals directly employed as government officials while acting
5 within the course and scope of their official duties.

6 Section 7. Notwithstanding the provisions of § 7-18A-36, 8-5-13, or 9-19-20, counties,
7 townships, and municipalities may enact ordinances, rules, and regulations relative to arms only
8 to the extent expressly authorized by state law.

9 Section 8. Any person, entity, or organization adversely affected by any governmental
10 enactment or action in violation of § 7-18A-36, 8-5-13, or 9-19-20 may file a lawsuit against
11 the governmental entity for any actual damages, declaratory relief, injunctive relief, or civil
12 rights violations. If the governmental enactment or action was a discretionary determination by
13 one or more individuals, those individuals may be named as parties to the action as well and may
14 not rely on any claim of sovereign immunity for purposes of the action. If the court issues any
15 injunction or grants any declaratory or other relief against a governmental entity in any such suit,
16 the court shall also award to the nongovernmental party reasonable attorney's fees and all court
17 costs associated with the action.

18 Section 9. Pursuant to the sovereignty of this state and the restrictions imposed by the
19 Constitution of the United States on the federal government, all federal laws, ordinances, rules,
20 regulations, executive orders, or enactments relative to the rights of citizens, residents, and
21 civilians within this state concerning or relating in any way to arms or the power of this state
22 to exclusively regulate the entire field of arms within the geographical boundaries of this state
23 are hereby declared to be unconstitutional and are therefore null and void. The entire field of
24 arms includes the possession, use, discharge, transportation, purchase, acquisition, sale, transfer,

1 ownership, manufacture, taxation, and repair of firearms, ammunition, and their components.

2 Any agent, employee, or person acting under the authority of any governmental agency, or
3 any person who acts as a contractor for any governmental agency who enforces or attempts to
4 enforce any law, ordinance, rule, regulation, or executive order addressed in this section is guilty
5 of a Class 5 felony and shall be imprisoned in a state penitentiary for the entirety of his or her
6 term.

7 Any person, entity, or organization adversely affected by any governmental enactment or
8 action in violation of this section may file a lawsuit against the governmental entity for any
9 actual damages, declaratory relief, injunctive relief, or civil rights violations. If the
10 governmental enactment or action was a discretionary determination by one or more individuals,
11 those individuals may be named as parties to the action as well and may not rely on any claim
12 of sovereign immunity for purposes of the action. If the court issues any injunction or grants any
13 declaratory or other relief against a governmental entity in any such suit, the court shall also
14 award to the nongovernmental party reasonable attorney's fees and all court costs associated
15 with said action.