

118TH CONGRESS
1ST SESSION

S. 840

To protect the rights of the people of the United States under the Second Amendment to the Constitution of the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 2023

Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. CORNYN, Mr. LEE, Mr. CRUZ, Mr. HAWLEY, Mr. COTTON, Mr. KENNEDY, Mr. TILLIS, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the rights of the people of the United States under the Second Amendment to the Constitution of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Respect for the Second
5 Amendment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Second Amendment to the Constitution
9 of the United States protects the individual right to

1 keep and bear arms independent of service in an or-
2 ganized militia.

3 (2) The Supreme Court of the United States
4 held in *District of Columbia v. Heller*, 554 U.S. 570,
5 595 (2008) that “[t]here seems to us no doubt, on
6 the basis of both text and history, that the Second
7 Amendment conferred an individual right to keep
8 and bear arms.”.

9 (3) The Supreme Court further held in *New*
10 *York State Rifle & Pistol Association v. Bruen*, 142
11 S. Ct. 2111, 2126 (2022) that the Second Amend-
12 ment requires the government to demonstrate that a
13 law regulating firearms “is consistent with this Na-
14 tion’s historical tradition of firearm regulation”.

15 (4) The right to keep and bear arms is a funda-
16 mental individual right guaranteed by the Constitu-
17 tion and a cornerstone of the liberties that every
18 United States citizen enjoys.

19 (5) The Fourteenth Amendment to the Con-
20 stitution grants Congress the authority to enforce,
21 by appropriate legislation, that Amendment’s com-
22 mand that “[n]o State shall make or enforce any
23 law which shall abridge the privileges or immunities
24 of citizens of the United States”.

1 (6) Certain States have enacted or are seeking
2 to enact gun control laws that are inconsistent with
3 the United States’ historical tradition of firearm reg-
4 ulation, including bans on the carrying of firearms
5 by residents of other States and bans on large cat-
6 egories of firearms that are in common use for law-
7 ful purposes.

8 (7) It is therefore necessary for Congress to ex-
9 ercise its authority under the Fourteenth Amend-
10 ment to ensure that the Second Amendment rights
11 of all people of the United States are protected from
12 infringement by the States.

13 (8) Congress has also exercised authority under
14 the Taxing Clause and Commerce Clause of section
15 8 of article I of the Constitution to regulate the
16 interstate market in firearms and ammunition.

17 **SEC. 3. LIMITATIONS ON REGULATION OF FIREARMS.**

18 (a) DEFINITION OF “FIREARM”.—In this section, the
19 term “firearm”—

20 (1) has the meaning given the term in section
21 921 of title 18, United States Code; and

22 (2) includes—

23 (A) an antique firearm, as defined in sec-
24 tion 921 of title 18, United States Code (not-
25 withstanding paragraph (1) of this subsection);

1 (B) an assembled or unassembled firearm;
2 and

3 (C) any part of a firearm, including any
4 integrated or detachable magazine or ammuni-
5 tion feeding device.

6 (b) NO ENFORCEMENT OR IMPLEMENTATION OF
7 LAWS IN VIOLATION OF SECOND AMENDMENT RIGHTS.—
8 No person acting under color of any statute, ordinance,
9 regulation, custom, or usage of the Federal Government,
10 of any State or territory, of any locality, or of the District
11 of Columbia may enforce or implement any Federal, State,
12 or local law, rule, ordinance, or regulation that prohibits,
13 limits, places requirements or conditions upon, or other-
14 wise regulates the right of an individual to lawfully manu-
15 facture for personal use, acquire, possess, own, carry,
16 transport, ship, or use a privately owned firearm or pri-
17 vately owned ammunition unless the law, rule, ordinance,
18 or regulation is consistent with the United States' histor-
19 ical tradition of firearm regulation.

20 (c) ENFORCEMENT.—

21 (1) PUBLIC RIGHT OF ACTION.—The Attorney
22 General may bring a civil action for declaratory or
23 injunctive relief in an appropriate district court of
24 the United States against any person who violates
25 subsection (b).

1 (2) PRIVATE RIGHT OF ACTION.—

2 (A) IN GENERAL.—Any person who is
3 harmed by a violation of subsection (b), or any
4 membership organization that represents such a
5 person, may bring a civil action for declaratory
6 or injunctive relief in an appropriate district
7 court of the United States against the person
8 who committed the violation.

9 (B) COSTS AND FEES.—The court shall
10 award costs and reasonable attorney fees to any
11 plaintiff who prevails in an action brought
12 under subparagraph (A), including if the action
13 is resolved by a negotiated settlement or mooted
14 by repeal or amendment of the offending law,
15 rule, regulation, prohibition, policy, or practice.

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to—

18 (1) preempt any provision of State law that
19 provides greater protections to the individual right
20 to keep and bear arms than those provided under
21 this section; or

22 (2) limit any other remedy available under the
23 laws of a State or the United States for infringe-
24 ment of the right to lawfully manufacture for per-
25 sonal use, acquire, possess, own, carry, transport,

1 ship, or use a privately owned firearm or privately
2 owned ammunition.

3 **SEC. 4. REPEALER.**

4 Chapter 44 of title 18, United States Code, is amend-
5 ed—

6 (1) by striking section 927; and

7 (2) in the table of sections, by striking the item
8 relating to section 927.

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