

1 HB13  
2 214674-1  
3 By Representatives Lipscomb, Moore (P) and Oliver  
4 RFD: Judiciary  
5 First Read: 11-JAN-22  
6 PFD: 09/01/2021

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8       SYNOPSIS:               Under existing constitutional law, the  
9                               federal government may not require a state or its  
10                              officers to administer or enforce a federal  
11                              regulatory program.

12                             This bill would prohibit the state and its  
13                             agencies and political subdivisions from  
14                             participating in the enforcement of any federal  
15                             act, law, order, rule, or regulation relating to  
16                             firearms, firearm accessories, or ammunition, and  
17                             would provide criminal penalties for a violation.

18                             Under existing constitutional law, the  
19                             United States Congress is given the authority to  
20                             regulate interstate commerce.

21                             This bill would provide that firearms,  
22                             firearm accessories, and ammunition that are  
23                             manufactured in this state and remain in this  
24                             state, and are therefore only engaged in intrastate  
25                             commerce, are not subject to federal law or  
26                             regulation, including registration, under the

1 authority of the United State Congress to regulate  
2 interstate commerce.

3 Amendment 621 of the Constitution of Alabama  
4 of 1901, now appearing as Section 111.05 of the  
5 Official Recompilation of the Constitution of  
6 Alabama of 1901, as amended, prohibits a general  
7 law whose purpose or effect would be to require a  
8 new or increased expenditure of local funds from  
9 becoming effective with regard to a local  
10 governmental entity without enactment by a 2/3 vote  
11 unless: it comes within one of a number of  
12 specified exceptions; it is approved by the  
13 affected entity; or the Legislature appropriates  
14 funds, or provides a local source of revenue, to  
15 the entity for the purpose.

16 The purpose or effect of this bill would be  
17 to require a new or increased expenditure of local  
18 funds within the meaning of the amendment. However,  
19 the bill does not require approval of a local  
20 governmental entity or enactment by a 2/3 vote to  
21 become effective because it comes within one of the  
22 specified exceptions contained in the amendment.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1           Relating to firearms; to provide prohibitions on the  
2 enforcement of federal laws relating to firearms and  
3 accessories and ammunition thereof; to provide criminal  
4 penalties for a violation; to provide that certain firearms,  
5 firearm accessories, and ammunition that are manufactured in  
6 this state are not subject to federal law or regulation; and  
7 in connection therewith would have as its purpose or effect  
8 the requirement of a new or increased expenditure of local  
9 funds within the meaning of Amendment 621 of the Constitution  
10 of Alabama of 1901, now appearing as Section 111.05 of the  
11 Official Recompilation of the Constitution of Alabama of 1901,  
12 as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14           Section 1. (a) The Legislature finds and declares  
15 all of the following:

16           (1) The Second Amendment to the United States  
17 Constitution protects an individual's right to "keep and bear  
18 arms" and further provides that the right to keep and bear  
19 arms may not be infringed.

20           (2) It is the intent of the Legislature to protect  
21 Alabama employees, including law enforcement officers, from  
22 being directed, through federal executive orders, agency  
23 orders, statutes, laws, rules, or regulations that violate  
24 their oath of office and individual rights affirmed under the  
25 Second Amendment of the United States Constitution and Section  
26 of the Constitution of Alabama of 1901.

1           (3) Pursuant to and in furtherance of the principles  
2 of federalism enshrined in the United States Constitution, the  
3 federal government may not commandeer this state's officers,  
4 agents, or employees to participate in the enforcement or  
5 facilitation of any federal program not expressly required by  
6 the United States Constitution.

7           (4) The right to be free from the commandeering hand  
8 of the federal government has been most notably recognized by  
9 the United States Supreme Court in *Printz v. United States*,  
10 521 U.S. 898 (1997), when the Court held: "The Federal  
11 Government may neither issue directives requiring the States  
12 to address particular problems, nor command the States'  
13 officers, or those of their political subdivisions, to  
14 administer or enforce a federal regulatory program."

15           (5) The anti-commandeering principles recognized by  
16 the U.S. Supreme Court in *Printz* are predicated upon the  
17 advice of James Madison, who, in *The Federalist* No. 46, argued  
18 for a "refusal to cooperate with officers of the Union" when  
19 faced with unconstitutional federal measures or  
20 constitutional, but unpopular, federal measures.

21           (b) (1) Notwithstanding any provision of law to the  
22 contrary, no public funds of this state or any political  
23 subdivision of this state nor any property of this state or  
24 any political subdivision of this state may be allocated for  
25 the implementation, regulation, or enforcement of any  
26 executive order or directive issued by the President of the  
27 United States, or of any act of the United States Congress,

1 that becomes effective after January 1, 2022, that regulates  
2 the ownership, use, or possession of firearms, ammunition, or  
3 firearm accessories.

4 (2) Notwithstanding any provision of law to the  
5 contrary, no appointed or elected official, officer, employee,  
6 or agent of the state, or any political subdivision of the  
7 state, when acting in an official capacity, shall implement,  
8 administer, or enforce an executive order or directive issued  
9 by the President of the United States, or any act of the  
10 United States Congress, that becomes effective after January  
11 1, 2022, that regulates the ownership, use, or possession of  
12 firearms, ammunition, or firearm accessories.

13 (c) (1) Any appointed or elected official, officer,  
14 employee, or agent of the state, or any political subdivision  
15 of the state, who knowingly violates this section, on a first  
16 violation, shall be guilty of a Class C misdemeanor and shall  
17 be fined not less than five hundred dollars (\$500) or more  
18 than five thousand dollars (\$5,000).

19 (2) An appointed or elected official, officer,  
20 employee, or agent of the state, or any political subdivision  
21 of the state, who knowingly violates this section, on a second  
22 or subsequent violation, shall be guilty of a Class B  
23 misdemeanor and shall be fined not less than one thousand  
24 dollars (\$1,000) or more than seven thousand dollars (\$7,000).

25 Section 2. (a) (1) Upon the adoption of a rule,  
26 order, ordinance, resolution, or other official policy by a  
27 political subdivision of the state which intentionally

1 requires actions that violate Section 1, a resident of this  
2 state may file a complaint with the Attorney General. The  
3 complaint shall include evidence supporting an allegation that  
4 the political subdivision has adopted a rule, order,  
5 ordinance, resolution, or policy under which the entity  
6 enforces a federal law in violation of Section 1.

7 (2) If the Attorney General determines that a  
8 complaint filed under subdivision (1) is valid, the Attorney  
9 General may petition the court to compel compliance with this  
10 act. The petition shall be filed in the circuit court of the  
11 county in which the principal office of the political  
12 subdivision is located.

13 (3) Upon a finding that political subdivision is in  
14 violation of Section 1, the court shall award the Attorney  
15 General reasonable expenses incurred in obtaining relief under  
16 this section, including court costs, reasonable attorney's  
17 fees, investigative costs, witness fees, and deposition costs.

18 (b) Following the year in which a final judicial  
19 determination in an action brought under this section is made  
20 that the political subdivision has intentionally required  
21 actions that violate Section 1, all state grant funds for the  
22 political subdivision shall be denied for the fiscal year. The  
23 state grant funds shall continue to be denied for each  
24 subsequent fiscal year unless and until the political  
25 subdivision is in full compliance with Section 1.

26 Section 3. (a) The Legislature finds and declares  
27 all of the following:

1           (1) The Tenth Amendment to the United States  
2           Constitution guarantees to the states and their people all  
3           powers not granted to the federal government elsewhere in the  
4           United States Constitution and reserves to the State of  
5           Alabama and its people certain powers as they were understood  
6           at the time that Alabama was admitted to statehood in 1819,  
7           and the guaranty of these powers is a matter of contract  
8           between the State of Alabama and its people and the United  
9           States as of the time that the compact with the United States  
10          was agreed upon and adopted by Alabama and the United States  
11          in 1819.

12          (2) The Ninth Amendment to the United States  
13          Constitution guarantees to the people rights not granted in  
14          the United States Constitution and reserves to the people of  
15          Alabama certain rights as they were understood at the time  
16          Alabama was admitted into statehood in 1819, and the guaranty  
17          of these rights is a matter of contract between the State of  
18          Alabama and its people and the United States as of the time  
19          that the compact with the United States was agreed upon and  
20          adopted by Alabama and the United States in 1819.

21          (3) The power to regulate intrastate commerce is  
22          vested in the several states under the Ninth and Tenth  
23          Amendments to the United States Constitution.

24          (4) The Second Amendment to the United States  
25          Constitution reserves to the people the right to keep and bear  
26          arms as that right was understood at the time that Alabama was  
27          admitted into statehood in 1819, and the guaranty of that



1 right is a matter of contract between the State of Alabama and  
2 its people and the United States as of the time that the  
3 compact with the United States was agreed upon and adopted by  
4 Alabama and the United States in 1819.

5 (b) As used in this section, the following terms  
6 shall have the following meanings:

7 (1) FIREARM ACCESSORY. An item that is used in  
8 conjunction with or mounted onto a firearm, but is not  
9 essential to the basic function of the firearm. The term  
10 includes a telescopic or laser sight, magazine, flash or sound  
11 suppressor, folding or aftermarket stock and grip,  
12 speedloader, ammunition carrier, and light for target  
13 illumination.

14 (2) GENERIC AND INSIGNIFICANT PART. An item that has  
15 manufacturing or consumer product applications other than  
16 inclusion in a firearm, a firearm accessory, or ammunition.  
17 The term includes a spring, screw, nut, and pin.

18 (3) MANUFACTURED IN THIS STATE. An item that is  
19 manufactured in this state from basic materials and without  
20 the inclusion of any part imported from another state other  
21 than a generic and insignificant part. Notwithstanding the  
22 foregoing, a firearm is manufactured in this state if it is  
23 manufactured as described in the preceding sentence without  
24 regard to whether a firearm accessory or ammunition imported  
25 into this state from another state is attached to or used in  
26 conjunction with it.

1           (4) MANUFACTURING. The term includes forging,  
2 casting, machining, or any other process used for working a  
3 material.

4           (c) Subject to subsection (e), a firearm, a firearm  
5 accessory, or ammunition that is commercially or privately  
6 manufactured in Alabama, that is sold in Alabama, and that  
7 remains within the borders of Alabama is not subject to  
8 federal law or regulation, including registration, under the  
9 authority of the United State Congress to regulate interstate  
10 commerce, as the item has not traveled in interstate commerce.

11           (d) (1) This section applies to firearms, ammunition,  
12 or firearm accessories that are manufactured in Alabama from  
13 basic materials and that can be manufactured without the  
14 inclusion of any significant parts imported from another  
15 state.

16           (2) Generic and insignificant parts that have other  
17 manufacturing or consumer product applications are not  
18 firearms, ammunition, or firearm accessories, and their  
19 importation into Alabama and incorporation into a firearm,  
20 ammunition, or a firearm accessory manufactured in Alabama  
21 does not subject the firearm, ammunition, or firearm accessory  
22 to federal regulation.

23           (3) A basic material from which a firearm, a firearm  
24 accessory, or ammunition is manufactured in this state,  
25 including unmachined steel and unshaped wood, is not a  
26 firearm, a firearm accessory, or ammunition and is not subject  
27 to federal regulation under the authority of the United States

1 Congress to regulate interstate commerce as if it actually  
2 were a firearm, a firearm accessory, or ammunition.

3 (e) A firearm manufactured in this state is exempt  
4 from federal law or regulation under subsection (c) only if  
5 the firearm has the words "Made in Alabama" clearly stamped on  
6 a central metallic part of the firearm, such as the receiver  
7 or frame.

8 (f) (1) The Attorney General shall defend a resident  
9 of this state whom the federal government attempts to  
10 prosecute, claiming the power to regulate interstate commerce,  
11 for a violation of a federal law or regulation concerning the  
12 manufacture, sale, transfer, or possession of firearms,  
13 ammunition, or firearm accessories manufactured and retained  
14 in this state.

15 (2) Upon receipt by the Attorney General of written  
16 notice from a resident of this state that the resident intends  
17 to manufacture a firearm or firearm accessory to which this  
18 section applies pursuant to subsection (d), the Attorney  
19 General shall seek a declaratory judgment from a federal  
20 district court in this state that this section is consistent  
21 with the United State Constitution.

22 (g) This section does not apply to any of the  
23 following:

24 (1) A firearm that cannot be carried and used by one  
25 person.

1           (2) A firearm that has a bore diameter greater than  
2 1.5 inches and that uses smokeless powder and not black powder  
3 as a propellant.

4           (3) Ammunition with a projectile that explodes using  
5 an explosion of chemical energy after the projectile leaves  
6 the firearm.

7           (4) A firearm that discharges two or more  
8 projectiles with one activation of the trigger or other firing  
9 device.

10           Section 4. (a) The following federal acts, laws,  
11 executive orders, administrative orders, court orders, rules,  
12 and regulations shall be considered infringements on the  
13 people's right to keep and bear arms, as guaranteed by the  
14 Second Amendment to the United States Constitution, within the  
15 borders of this state, including, but not limited to, all of  
16 the following:

17           (1) Any tax, levy, fee, or stamp imposed on  
18 firearms, ammunition, or firearm accessories not common to all  
19 other goods and services that might reasonably be expected to  
20 create a chilling effect on the purchase or ownership of those  
21 items by law abiding residents of the state.

22           (2) Any registration or tracking of firearms,  
23 ammunition, or firearm accessories that might reasonably be  
24 expected to create a chilling effect on the purchase or  
25 ownership of those items by law abiding residents of the  
26 state.

1           (3) Any registration or tracking of the owners of  
2 firearms, ammunition, or firearm accessories that might  
3 reasonably be expected to create a chilling effect on the  
4 purchase or ownership of those items by law abiding residents  
5 of the state.

6           (4) Any act forbidding the possession, ownership,  
7 use, or transfer of a firearm, ammunition, or firearm  
8 accessory by law abiding residents of the state.

9           (5) Any act ordering the confiscation of firearms,  
10 ammunition, or firearm accessories from law abiding residents  
11 of the state.

12           (b) A federal act, law, executive order,  
13 administrative order, court order, rule, or regulation that  
14 infringes on a person's right to keep and bear arms as  
15 provided under subsection (a) shall be void and of no effect  
16 in this state.

17           (c) As used in this section, the term "law abiding  
18 residents of the state" includes those individuals not  
19 otherwise precluded under state law from possessing a firearm.

20           Section 5. The provisions of this act are severable  
21 and if any provision of this act or the application of such  
22 provision to any person or circumstance is declared invalid  
23 for any reason, such declaration shall not affect the validity  
24 of the remaining portions of this act.

25           Section 6. This act shall become effective on the  
26 first day of the third month following its passage and  
27 approval by the Governor, or its otherwise becoming law.

