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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 551 Session of  
2023

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INTRODUCED BY MASTRIANO, DUSH, PHILLIPS-HILL, GEBHARD, BROOKS,  
STEFANO, PENNYCUICK, BARTOLOTTA, ROTHMAN, HUTCHINSON, YAW,  
J. WARD, AUMENT AND REGAN, APRIL 19, 2023

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REFERRED TO JUDICIARY, APRIL 19, 2023

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AN ACT

1 Providing that any Federal action that attempts to register,  
2 restrict or ban a firearm or accessory, or to limit, inhibit  
3 or regulate the ownership of magazines in this Commonwealth  
4 shall be unenforceable in this Commonwealth; and imposing  
5 penalties.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Right-to-  
10 Bear-Arms Protection Act.

11 Section 2. Findings and declarations.

12 The General Assembly finds and declares as follows:

13 (1) Section 21 of Article I of the Constitution of  
14 Pennsylvania, in clear and unambiguous language states that  
15 the "right of the citizens to bear arms in defense of  
16 themselves and the State shall not be questioned." Section 25  
17 of Article I of the Constitution of Pennsylvania also clearly  
18 and unambiguously states that "to guard against the  
19 transgressions of high powers which we have delegated, we

1 declare that everything in this article is excepted out of  
2 the general powers of Government and shall forever remain  
3 inviolate," and further finds that both of these are rights  
4 of "The People," which are clearly laid out prior to any  
5 mention of the framework of Government having been defined in  
6 the Constitution of Pennsylvania.

7 (2) The right to keep and bear arms is a fundamental  
8 right possessed by the individual necessary for defense of  
9 self and preservation of liberty and shall not be infringed.

10 (3) It is the intent of the General Assembly to protect  
11 State actors from being directed through Federal action to  
12 violate their oath of defense and preservation of these  
13 individual rights as enumerated in the Constitution of the  
14 United States and section 21 of Article I of the Constitution  
15 of Pennsylvania of its residents' right to bear arms in  
16 defense of themselves and the State.

17 (4) Pursuant to and in furtherance of the principles of  
18 Federalism enshrined in the Constitution of the United  
19 States, the Federal Government may not commandeer this  
20 State's actors to participate in the enforcement or  
21 facilitation of any Federal action or regulatory program.

22 (5) This right to be free from the commandeering hand of  
23 the Federal Government has been most notably recognized by  
24 the United States Supreme Court in *Printz v. United States*,  
25 521 U.S. 898 (1997), when the Court held: "The Federal  
26 Government may neither issue directives requiring the States  
27 to address particular problems, nor command the States'  
28 officers, or those of their political subdivisions, to  
29 administer or enforce a federal regulatory program."

30 (6) The anti-commandeering principles recognized by the

1 Supreme Court in *Printz v. United States* are predicated upon  
2 the advice of James Madison, who in Federalist #46 advised a  
3 "refusal to co-operate with the officers of the Union" in  
4 response to either unconstitutional Federal measures or  
5 constitutional but unpopular Federal measures.

6 Section 3. Definitions.

7 The following words and phrases when used in this act shall  
8 have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Federal action." Any of the following issued or enacted by  
11 the Federal government:

12 (1) An executive order.

13 (2) An agency order.

14 (3) A statute.

15 (4) A law.

16 (5) A rule.

17 (6) A regulation.

18 (7) An arbitrary clarification or classification,

19 including any of the following:

20 (i) A classification of weapons based on attributes  
21 that do not go to primary combustion function of the  
22 firearm, such as natural unmodified rate of fire.

23 (ii) A classification designed to prohibit  
24 possession for nonmechanically necessary attributes, such  
25 as bayonet lugs, telescoping stocks, muzzle breaks or  
26 other fixtures, pistol grips and pistol braces.

27 (iii) A clarification issued through executive or  
28 legislative agencies designed to prohibit ownership or  
29 possession of firearms based on attributes that are  
30 nonmechanically necessary or in common use.

1 "Firearm accessory." An item used in conjunction with or  
2 affixed to a firearm but that is not mechanically essential to  
3 the basic functions of that firearm.

4 "Registry." A list generated by regulation, mandate, order  
5 or statute that indicates the ownership, residence or storage  
6 location of firearms purchased or otherwise legally owned or  
7 stored within this Commonwealth.

8 "State actor." An official, agent or employee of the  
9 Commonwealth or a political subdivision of the Commonwealth. The  
10 term includes persons contracting with the Commonwealth.

11 Section 4. Prohibitions.

12 (a) State actors.--A Federal action relating to a firearm,  
13 magazine of a firearm, accessory and ammunition, intended to  
14 restrict possession, transfer or use of a firearm, magazine of a  
15 firearm, accessory and ammunition shall be unenforceable by a  
16 State actor in this Commonwealth.

17 (b) Enforceability.--A Federal action created or taking  
18 effect after December 31, 2020, shall be unenforceable within  
19 this Commonwealth if the Federal action attempts to register,  
20 restrict or ban the ownership or purchase of a firearm, magazine  
21 of a firearm, firearm accessory or ammunition, or to reclassify  
22 the firearm, accessory or magazine ex post facto where the  
23 result is to prohibit or restrict continued ownership or common  
24 use. An attempt by the Federal government to create within this  
25 Commonwealth a registry regarding a firearm, component or  
26 accessory, ammunition or magazine shall be prohibited.

27 (c) Duty, immunity and penalty.--

28 (1) An official, agent or employee of the Federal  
29 Government, or a person who works for the Federal Government  
30 in any capacity located within this Commonwealth, or a State

1 actor owes an individual duty to each resident of this  
2 Commonwealth to not violate the resident's Federal Second  
3 Amendment rights or any similarly situated or applicable  
4 rights under the Constitution of the United States or the  
5 Commonwealth of Pennsylvania. This duty is established for  
6 the purpose of establishing a direct action for civil  
7 liability if a State actor breaches this duty against a  
8 Commonwealth resident.

9 (2) A State actor charged with or served with processes  
10 relating to an act related to enforcing or aiding or abetting  
11 an unconstitutional action under paragraph (1) forfeits any  
12 civil protections of qualified immunity that their position  
13 may bestow and consents jurisdiction necessary to adjudicate  
14 action against them for civil violations their actions  
15 contributed to in any degree. An action by a State actor  
16 enforcing or aiding or abetting an unconstitutional action  
17 under paragraph (1):

18 (i) Effectively and summarily waives all qualified  
19 immunity that the State actor may have been entitled to  
20 prior to taking the action.

21 (ii) Shall constitute prima facie evidence of a  
22 civil rights and tort action of a nature that shall  
23 afford the affected party a right to a private action  
24 against the State actor, their employer dictating the  
25 action and persons affiliated or aiding in the commission  
26 of the action.

27 (iii) Shall constitute consent to litigation in the  
28 forum most convenient to the plaintiff, subject to the  
29 Pennsylvania Rules of Civil Procedure.

30 (3) A State actor enforcing or aiding or abetting an

1 unconstitutional action under paragraph (1) shall be subject  
2 to the following:

3 (i) Damages, such as compensatory damages, general  
4 damages and punitive damages.

5 (ii) Beginning on the date of a judicial  
6 adjudication of a violation of this section:

7 (A) Termination of employment and any  
8 entitlements, except for pension or health care  
9 benefits related to retirement, bestowed by the  
10 employment.

11 (B) A bar from State employment in any capacity  
12 for a period of at least 10 years.

13 (iii) A bar from contracting with any State  
14 department, agency or office having contracts with the  
15 Commonwealth or acting as subcontractors for the  
16 Commonwealth.

17 (4) No person may contract with the Commonwealth or  
18 submit bids for consideration to a Commonwealth bid request  
19 who hires, employs or subcontracts with anyone found liable  
20 under this act. A person who violated this paragraph shall be  
21 liable as an accessory.

22 (d) Enforcement.--The Attorney General or a district  
23 attorney shall prosecute violations of this section. An affected  
24 party may bring a private action for a violation of this  
25 section, notwithstanding if the Attorney General or a district  
26 attorney fails to prosecute.

27 (e) Grant funds and forfeitures.--

28 (1) A political subdivision of this Commonwealth may not  
29 receive funds from the Commonwealth if the political  
30 subdivision adopts a rule, order, ordinance or policy in

1 violation of this section. State grant funds for the  
2 political subdivision shall be denied for the fiscal year  
3 following the year in which a final judicial determination in  
4 an action brought under this section is made that the  
5 political subdivision has intentionally required actions that  
6 violate this section.

7 (2) An agency, office, department or entity of the  
8 Commonwealth or a political subdivision of the Commonwealth  
9 may not accept Federal money or grants to support or advance  
10 a restriction, such as a Federal legislation or directive,  
11 that are in violation of this section. Federal money or  
12 grants to support or advance a restriction that are deposited  
13 with the Commonwealth shall be used for the improvement of  
14 State Game Lands and shooting ranges owned and maintained by  
15 the Commonwealth. To the extent that a political subdivision  
16 has received Federal money or grants to support or advance a  
17 restriction, the Federal money or grant must be remitted,  
18 within 10 days of receipt, to the State Treasurer for deposit  
19 in the General Fund and shall be used for the improvement of  
20 State Game Lands and shooting ranges owned and maintained by  
21 the Commonwealth. If the use of Federal money or grant is  
22 restricted by Federal action, the Federal money or grant  
23 must be returned to the appropriate Federal entity.

24 Section 5. Attorney General.

25 The Attorney General shall defend a resident of this  
26 Commonwealth who is prosecuted by the Federal Government for a  
27 violation of Federal law under section 4(a) that attempts to  
28 register, restrict or ban the ownership or purchase of a  
29 firearm, magazine of a firearm, firearm accessory or ammunition  
30 that is retained in this Commonwealth.

1 Section 6. Severability.

2 The provisions of this act are severable. If any provision of  
3 this act is held invalid, the invalidity shall not affect other  
4 provisions or applications of this act that can be given effect  
5 without the invalid provision or application.

6 Section 7. Effective date.

7 This act shall take effect in 30 days.