



2022 South Dakota Legislature

House Bill 1052

HOUSE JUDICIARY ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: **Representative Aylward**

1 **An Act to place limitations on the enforcement of federal laws and orders related to**
2 **firearms, accessories, and ammunition.**

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

4 **Section 1. That a NEW SECTION be added to title 23:**

5 For purposes of this Act, the following federal actions, whether undertaken by
6 statute, regulation, executive order, judicial order, or administrative order, constitute
7 federal infringements on the people's right to keep and bear arms, as guaranteed by the
8 Second Amendment of the United States Constitution:

9 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or
10 ammunition, not common to other goods and services, and which might reasonably
11 be expected to create a chilling effect on the purchase or ownership of firearms,
12 firearm accessories, or ammunition by law-abiding citizens;

13 (2) Any registration or tracking of firearms, firearm accessories, or ammunition, which
14 might reasonably be expected to create a chilling effect on the purchase or
15 ownership of firearms, firearm accessories, or ammunition by law-abiding citizens;

16 (3) Any registration or tracking of the owners of firearms, firearm accessories, or
17 ammunition, which might reasonably be expected to create a chilling effect on the
18 purchase or ownership of firearms, firearm accessories, or ammunition by law-
19 abiding citizens;

20 (4) Any action forbidding the possession, ownership, use, or transfer of firearms,
21 firearm accessories, or ammunition by law-abiding citizens; and

22 (5) Any action ordering the confiscation of firearms, firearm accessories, or
23 ammunition from law-abiding citizens.

24 **Section 2. That a NEW SECTION be added to title 23:**

25 Any federal action described in section 1 of this Act:

- 1 (1) Is invalid in this state;
- 2 (2) May not be recognized in this state;
- 3 (3) Must be specifically rejected by this state; and
- 4 (4) Has no effect in this state.

5 **Section 3. That a NEW SECTION be added to title 23:**

6 Each court and any law enforcement agency having jurisdiction in this state shall
7 protect the right of law-abiding citizens to keep and bear arms, within this state, and shall
8 protect these rights from any federal action described in section 1 of this Act.

9 **Section 4. That a NEW SECTION be added to title 23:**

10 No state agency, political subdivision, or any elected or appointed official or
11 employee of this state or of a political subdivision, acting under governmental authority,
12 may enforce or attempt to enforce any federal action described in section 1 of this Act.

13 Nothing in this chapter precludes the acceptance of aid from federal officials for
14 the purpose of enforcing the laws of this state.

15 **Section 5. That a NEW SECTION be added to title 23:**

16 Any political subdivision or law enforcement agency that employs a law
17 enforcement officer who knowingly violates this Act, is liable for any injury caused to a
18 person and is subject to imposition, by a court, of a civil penalty in the amount of fifty
19 thousand dollars per violation.

20 Any political subdivision or law enforcement agency that knowingly employs a
21 person who was found to have violated this Act, is subject to a civil penalty in the amount
22 of fifty thousand dollars for each person so employed.

23 The court shall forward any civil penalty collected under this section to the state
24 treasurer for deposit in the general fund.

25 Any person may seek the issuance of a temporary or permanent injunction to
26 restrain and prevent a violation of this Act. Any prevailing party, other than a political
27 subdivision, is entitled to receive reasonable attorney's fees and costs.

28 **Section 6. That a NEW SECTION be added to title 23:**

29 It is not a violation of this Act for a person to provide material aid to a federal law
30 enforcement officer who is in pursuit of a suspect having a demonstrable criminal nexus

1 with another state or country, provided the suspect is not a resident of this state and not
2 present in this state, or during an emergency situation involving an active shooter on
3 federal property located within the state of South Dakota.

4 It is not a violation of this Act for a person to provide material aid to a federal
5 prosecutor in any felony case involving controlled substances or violence against another
6 person, if the case includes weapons violations of laws that are substantially similar to
7 laws of this state and if the weapons violations are ancillary to the prosecution.

8 It is not a violation of this Act for a person to seek federal grants to fight domestic
9 violence or human trafficking by those who are breaking South Dakota or federal law.