

1 AN ACT relating to prohibiting the enforcement of a federal ban or regulation of  
2 firearms and declaring an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. The General Assembly of the Commonwealth of Kentucky finds  
5 that:

6 (1) Section 1 of the Constitution of Kentucky provides, in part, that all men have  
7 an inalienable right to bear arms in defense of themselves and of the state;

8 (2) The Second Amendment to the Constitution of the United States guarantees  
9 the right of the people to keep and bear arms;

10 (3) The Tenth Amendment to the Constitution of the United States reserves to the  
11 states and people all powers not granted to the federal government; and

12 (4) The Supreme Court of the United States, in the case of *Printz v. United States*,  
13 521 U.S. 898 (1997), affirmed that the federal government does not have the authority to  
14 commandeer local or state agents to enforce federal policy;

15 (5) The General Assembly of the Commonwealth of Kentucky is firmly resolved  
16 to support and defend the Constitution of the United States against every aggression,  
17 whether foreign or domestic, and is dutybound to oppose every infraction of those  
18 principles that constitute the basis of the union of the states because only a faithful  
19 observance of those principles can secure the union's existence and the public happiness;

20 (6) Acting through the Constitution of the United States, the people of the several  
21 states created the federal government to be their agent in the exercise of a few defined  
22 powers, while reserving for the state governments the power to legislate on matters  
23 concerning the lives, liberties, and properties of citizens in the ordinary course of affairs;

24 (7) The limitation of the federal government's power is affirmed under the Tenth  
25 Amendment to the Constitution of the United States, which defines the total scope of  
26 federal powers as being those that have been delegated by the people of the several states  
27 to the federal government, and all powers not delegated to the federal government in the

1 Constitution of the United States are reserved to the states respectively or the people  
2 themselves;

3 (8) If the federal government assumes powers that the people did not grant it in  
4 the Constitution of the United States, its acts are unauthoritative, void, and of no force;

5 (9) The several states of the United States respect the proper role of the federal  
6 government but reject the proposition that such respect requires unlimited submission. If  
7 the federal government, created by a compact among the states, were the exclusive or  
8 final judge of the extent of the powers granted to it by the states through the Constitution  
9 of the United States, the federal government's discretion, and not the Constitution of the  
10 United States, would necessarily become the measure of those powers. To the contrary,  
11 as in all other cases of compacts among powers having no common judge, each party has  
12 an equal right to judge for itself as to whether infractions of the compact have occurred,  
13 as well as to determine the mode and measure of redress. Although the several states have  
14 granted supremacy to laws and treaties made under the powers granted in the  
15 Constitution of the United States, such supremacy does not extend to various federal  
16 statutes, executive orders, administrative orders, court orders, rules, regulations, or other  
17 actions that collect data or restrict or prohibit the manufacture, ownership, or use of  
18 firearms, firearm accessories, or ammunition exclusively within the borders of Kentucky;  
19 such statutes, executive orders, administrative orders, court orders, rules, regulations, and  
20 other actions exceed the powers granted to the federal government except to the extent  
21 they are necessary and proper for governing and regulating the United States Armed  
22 Forces or for organizing, arming, and disciplining militia forces actively employed in the  
23 service of the United States Armed Forces;

24 (10) The people of the several states have given Congress the power "to regulate  
25 commerce with foreign nations, and among the several states," but "regulating  
26 commerce" does not include the power to limit citizens' right to keep and bear arms in  
27 defense of their families, neighbors, persons, or property nor to dictate what sorts of arms

1 and accessories law-abiding Kentuckians may buy, sell, exchange, or otherwise possess  
2 within the borders of this State;

3 (11) The people of the several states have also granted Congress the powers "To  
4 lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts, and provide for the  
5 common Defence and general Welfare of the United States" and "To make all Laws  
6 which shall be necessary and proper for carrying into Execution the ... powers vested by  
7 this Constitution in the Government of the United States, or in any Department or Officer  
8 thereof." These Constitutional provisions merely identify the means by which the federal  
9 government may execute its limited powers and shall not be construed to grant unlimited  
10 power because to do so would be to destroy the carefully constructed equilibrium  
11 between the federal and state governments. Consequently, the General Assembly rejects  
12 any claim that the taxing and spending powers of Congress may be used to diminish in  
13 any way the right of the people to keep and bear arms; and

14 (12) The people of Kentucky have vested the General Assembly with the authority  
15 to regulate the manufacture, possession, exchange, and use of firearms within the borders  
16 of this state, subject only to the limits imposed by the Second Amendment to the  
17 Constitution of the United States and the Constitution of Kentucky.

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO  
19 READ AS FOLLOWS:

20 **(1) As used in this section and Section 3 of this Act:**

21 **(a) "Ammunition" has the same meaning as in KRS 237.060;**

22 **(b) "Federal ban" means a federal law, executive order, rule, or regulation that**  
23 **is adopted, enacted, or becomes effective after the effective date of this Act,**  
24 **or a new and more restrictive interpretation of the law that existed prior to**  
25 **the effective date of this Act, that infringes upon, calls into question,**  
26 **prohibits, restricts, or requires individual licensure for or registration of the**  
27 **purchase, ownership, possession, transfer, or use of any firearm,**

1 ammunition, or firearm accessory;

2 (c) "Financial institution" means any person doing business under the laws of  
3 any state or commonwealth or the United States relating to banks, bank  
4 holding companies, savings banks, payment processors, savings and loan  
5 associations, trust companies, or credit unions;

6 (d) "Firearm" has the same meaning as KRS 237.060;

7 (e) "Firearm accessory" means an item that is used in conjunction with or  
8 mounted on a firearm but is not essential to the basic function of the  
9 firearm, including but not limited to a detachable magazine;

10 (f) "Law-abiding citizen" means a person who is not otherwise precluded  
11 under state or federal law from possessing a firearm and shall not be  
12 construed to include anyone who is not legally present in the United States  
13 or in the state of Kentucky;

14 (g) "Law enforcement agency" means:

15 1. Any public agency that employs a law enforcement officer;

16 2. Any public agency that is composed of or employs other public peace  
17 officers; or

18 3. A campus security authority as defined in KRS 164.948 of a public  
19 institution operating under KRS Chapter 164;

20 (h) "Law enforcement officer" means any "peace officer" as defined in KRS  
21 446.010 and any "correctional officer" as defined in 441.045(15)(e);

22 (i) "Local government" means any city, county, charter county, urban-county,  
23 consolidated local, or unified local government;

24 (j) 1. "Material aid and support" shall include:

25 a. Voluntarily giving or allowing others to make use of lodging;

26 b. Communications equipment or services, including social media;

27 c. Accounts;

1 d. Facilities;

2 e. Weapons;

3 f. Personnel;

4 g. Transportation;

5 h. Clothing; or

6 i. Other physical assets.

7 2. "Material aid and support" shall not include:

8 a. Giving or allowing the use of medicine or other materials  
9 necessary to treat physical injuries; or

10 b. Any assistance provided to help persons escape a serious, present  
11 risk of life-threatening injury; and

12 (j) "Public agency" has the same meaning as KRS 61.870, including a policy-  
13 making board, or any officer, employee, or entity of a public institution  
14 operating under KRS Chapter 164.

15 (2) A law enforcement agency, law enforcement officer, employee of a law  
16 enforcement agency, public agency, public official, employee of a public agency,  
17 or employee of a local government shall not enforce, assist in the enforcement of,  
18 or otherwise cooperate in the enforcement of a federal ban on firearms,  
19 ammunition, or firearm accessories, and shall not participate in any federal  
20 enforcement action implementing a federal ban on firearms, ammunition, or  
21 firearm accessories.

22 (3) A law enforcement agency, local government, or public agency shall not adopt a  
23 rule, order, ordinance, or policy under which the entity enforces, assists in the  
24 enforcement of, or otherwise cooperates in a federal ban on firearms,  
25 ammunition, or firearm accessories.

26 (4) A local government, employee of a local government, public official, public  
27 agency, or employee of a public agency shall not expend public funds or allocate

1 resources for the enforcement of a federal ban on firearms, ammunition, or  
2 firearm accessories.

3 (5) An entity or person, including any public officer or employee of this state or any  
4 political subdivision of this state, shall not have the authority to enforce or  
5 attempt to enforce any federal acts, laws, executive orders, administrative orders,  
6 rules, regulations, statutes, or ordinances infringing on the right to keep and bear  
7 arms as described under Section 3 of this Act. Nothing in this section and Section  
8 3 of this Act shall be construed to prohibit officials in the Commonwealth of  
9 Kentucky from accepting aid from federal officials in an effort to enforce  
10 Kentucky law.

11 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO  
12 READ AS FOLLOWS:

13 (1) (a) The following federal acts, laws, executive orders, administrative orders,  
14 rules, and regulations shall be considered infringements on the people's  
15 right to keep and bear arms, as guaranteed by the Second Amendment to  
16 the Constitution of the United States and Section 1 of the Constitution of  
17 Kentucky, within the borders of this state, including but not limited to any:

18 1. Tax, levy, fee, or stamp imposed on firearms, firearm accessories, or  
19 ammunition not common to all other goods and services and that  
20 might reasonably be expected to create a chilling effect on the  
21 purchase or ownership of those items by law-abiding citizens;

22 2. Registration or tracking of firearms, firearm accessories, or  
23 ammunition of law-abiding citizens;

24 3. Registration or tracking of firearms, firearm accessories, or  
25 ammunition purchases by any financial institution conducting  
26 business in this Commonwealth;

27 4. Registration or tracking of the ownership of firearms, firearm

- 1                   accessories, or ammunition of law-abiding citizens;
- 2                   5. Act forbidding the possession, ownership, use, or transfer of a firearm,
- 3                   firearm accessory, or ammunition by law-abiding citizens; and
- 4                   6. Act ordering the confiscation of firearms, firearm accessories, or
- 5                   ammunition from law-abiding citizens.
- 6                   (b) The federal excise tax rate on arms and ammunition in effect as of the
- 7                   effective date of this Act, which funds programs under the Federal Aid in
- 8                   Wildlife Restoration Act, 16 U.S.C. sec. 669 et seq., does not have a chilling
- 9                   effect on the purchase or ownership of such arms and ammunition.
- 10                  (2) All federal acts, laws, executive orders, administrative orders, rules, and
- 11                  regulations, regardless of whether they were enacted before or after the effective
- 12                  date of this section and Section 2 of this Act, that infringe on the people's right to
- 13                  keep and bear arms as guaranteed by the Second Amendment to the Constitution
- 14                  of the United States and Section 1 of the Constitution of Kentucky shall be invalid
- 15                  in the Commonwealth of Kentucky, shall not be recognized by the
- 16                  Commonwealth of Kentucky, shall be specifically rejected by the Commonwealth
- 17                  of Kentucky, and shall not be enforced by the Commonwealth of Kentucky or any
- 18                  of its agencies or political subdivisions.
- 19                  (3) It shall be the duty of the courts and law enforcement agencies of this
- 20                  Commonwealth to protect the rights of law-abiding citizens to keep and bear arms
- 21                  within the borders of this Commonwealth and to protect these rights from the
- 22                  infringements defined under subsection (1) of this section.
- 23                  (4) Any political subdivision or law enforcement agency that employs a law
- 24                  enforcement officer who acts knowingly or otherwise knowingly deprives a law-
- 25                  abiding citizen of Kentucky of the rights or privileges ensured by the Second
- 26                  Amendment to the Constitution of the United States or Section 1 of the
- 27                  Constitution of Kentucky while acting under the color of any state or federal law

1       shall be:

2       (a) Liable to the injured party in an action at law, suit in equity, or other proper  
3               proceeding for redress; and

4       (b) Subject to a civil penalty of fifty thousand dollars (\$50,000) per occurrence.

5       (5) Any person injured under this section shall have standing to pursue an action for  
6       injunctive relief in the Circuit Court of the county in which the action allegedly  
7       occurred or in the Circuit Court of the county in which the injured person  
8       resides. The court:

9       (a) Shall hold a hearing on the motion for temporary restraining order and  
10               preliminary injunction within thirty (30) days of service of the petition; and

11       (b) May award a prevailing party, other than the state of Kentucky or any of its  
12               political subdivisions, reasonable attorney's fees and costs.

13       (6) Sovereign, governmental, and qualified immunity are waived to the extent of  
14       liability created under this section.

15       (7) It shall not be considered a violation of this section or Section 2 of this Act to  
16       provide material aid to federal officials who are in pursuit of a suspect when  
17       there is a demonstrable criminal nexus with another state or country and the  
18       suspect is either not a citizen of this state or not present in this state.

19       (8) It shall not be considered a violation of this section or Section 2 of this Act to  
20       provide material aid to federal prosecution for:

21       (a) Felonies against a person when such prosecution includes a weapons  
22               violation substantially similar to those found under current Kentucky law so  
23               long as the weapons violation is merely ancillary to the prosecution; or

24       (b) A Class A or Class B felony substantially similar to those found under  
25       Kentucky law when the prosecution includes a weapons violation  
26       substantially similar to those found under Kentucky law so long as the  
27       weapons violation is merely ancillary to such prosecution.



1           ➔Section 4. If any provision of Section 2 or 3 of this Act or the application  
2 thereof to any person or circumstance is held invalid, the invalidity shall not affect other  
3 provisions or applications of Section 2 or 3 of this Act that can be given effect without  
4 the invalid provision or application, and to this end the provisions of Sections 2 and 3 of  
5 this Act are severable.

6           ➔Section 5. Whereas the federal government continues to commandeer state and  
7 local law enforcement to aid in its infringement upon the right to bear arms and no just  
8 cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its  
9 passage and approval by the Governor, or upon its otherwise becoming a law.

10          ➔Section 6. This Act may be cited as the Kentucky Second Amendment  
11 Preservation Act.