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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1265

02/18/2021 Authored by Mortensen, Munson, Bahr, Miller, Drazkowski and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; establishing the second amendment preservation act;
1.3 proposing coding for new law in Minnesota Statutes, chapter 624.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 624.7111 SECOND AMENDMENT PRESERVATION ACT.

1.6 Subdivision 1. Title. Sections 624.7111 to 624.7118 shall be known as the "Second
1.7 Amendment Preservation Act."

1.8 Subd. 2. Declaration of policy. The legislature finds and declares that:

1.9 (1) the legislature of the state of Minnesota is firmly resolved to support and defend the
1.10 Constitution of the United States against every aggression, whether foreign or domestic,
1.11 and is duty bound to oppose every infraction of those principles that constitute the basis of
1.12 the Union of the States because only a faithful observance of those principles can secure
1.13 the union's existence and the public happiness;

1.14 (2) acting through the Constitution of the United States, the people of the several states
1.15 created the federal government to be their agent in the exercise of a few defined powers,
1.16 while reserving for the state governments the power to legislate on matters concerning the
1.17 lives, liberties, and properties of citizens in the ordinary course of affairs;

1.18 (3) the limitation of the federal government's power is affirmed under Amendment X
1.19 of the Constitution of the United States, which defines the total scope of federal power as
1.20 being that which has been delegated by the people of the several states to the federal
1.21 government, and all power not delegated to the federal government in the Constitution of
1.22 the United States is reserved to the states respectively or to the people themselves;

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

2.3 (5) the several states of the United States respect the proper role of the federal government
2.4 but reject the proposition that such respect requires unlimited submission. If the government,
2.5 created by a compact among the states, was the exclusive or final judge of the extent of the
2.6 powers granted to it by the states through the Constitution of the United States, the federal
2.7 government's discretion, and not the Constitution of the United States, would necessarily
2.8 become the measure of those powers. To the contrary, as in all other cases of compacts
2.9 among powers having no common judge, each party has an equal right to judge for itself
2.10 as to whether infractions of the compact have occurred, as well as to determine the mode
2.11 and measure of redress. Although the several states have granted supremacy to laws and
2.12 treaties made under the powers granted in the Constitution of the United States, such
2.13 supremacy does not extend to various federal statutes, executive orders, administrative
2.14 orders, court orders, rules, regulations, or other actions which collect data or restrict or
2.15 prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition
2.16 exclusively within the borders of Minnesota; such statutes, executive orders, administrative
2.17 orders, court orders, rules, regulations, and other actions exceed the powers granted to the
2.18 federal government except to the extent they are necessary and proper for governing and
2.19 regulating the United States Armed Forces or for organizing, arming, and disciplining militia
2.20 forces actively employed in the service of the United States Armed Forces;

2.21 (6) the people of the several states have given Congress the power "to regulate commerce
2.22 with foreign nations, and among the several states", but "regulating commerce" does not
2.23 include the power to limit citizens' right to keep and bear arms in defense of their families,
2.24 neighbors, persons, or property, or to dictate what sort of arms and accessories law-abiding
2.25 Minnesotans may buy, sell, exchange, or otherwise possess within the borders of this state;

2.26 (7) the people of the several states have also granted Congress the power "to lay and
2.27 collect taxes, duties, imports, and excises, to pay the debts, and provide for the common
2.28 defense and general welfare of the United States" and "to make all laws which shall be
2.29 necessary and proper for carrying into execution the powers vested by the Constitution of
2.30 the United States in the government of the United States, or in any department or office
2.31 thereof." These constitutional provisions merely identify the means by which the federal
2.32 government may execute its limited powers and shall not be construed to grant unlimited
2.33 power because to do so would be to destroy the carefully constructed equilibrium between
2.34 the federal and state governments. Consequently, the legislature rejects any claim that the

3.1 taxing and spending powers of Congress may be used to diminish in any way the right of
3.2 the people to keep and bear arms;

3.3 (8) the people of Minnesota have vested the legislature with the authority to regulate
3.4 the manufacture, possession, exchange, and use of firearms within the borders of this state,
3.5 subject only to the limits imposed by Amendment II of the Constitution of the United States
3.6 and the Constitution of Minnesota; and

3.7 (9) the legislature of the state of Minnesota strongly promotes responsible gun ownership,
3.8 including parental supervision of minors in the proper use, storage, and ownership of all
3.9 firearms; the prompt reporting of stolen firearms; and the proper enforcement of all state
3.10 gun laws. The legislature of the state of Minnesota hereby condemns any unlawful transfer
3.11 of firearms and the use of any firearm in any criminal or unlawful activity.

3.12 **Sec. 2. [624.7112] FEDERAL INFRINGEMENT ON SECOND AMENDMENT**
3.13 **RIGHTS.**

3.14 The following federal acts, laws, executive orders, administrative orders, court orders,
3.15 rules, and regulations shall be considered infringements on the people's right to keep and
3.16 bear arms, as guaranteed by Amendment II of the Constitution of the United States, within
3.17 the borders of this state including but not limited to:

3.18 (1) any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition
3.19 not common to all other goods and services and that might reasonably be expected to create
3.20 a chilling effect on the purchase or ownership of those items by law-abiding citizens;

3.21 (2) any registering or tracking of firearms, firearm accessories, or ammunition that might
3.22 reasonably be expected to create a chilling effect on the purchase or ownership of those
3.23 items by law-abiding citizens;

3.24 (3) any registering or tracking of the owners of firearms, firearm accessories, or
3.25 ammunition that might reasonably be expected to create a chilling effect on the purchase
3.26 or ownership of those items by law-abiding citizens;

3.27 (4) any act forbidding the possession, ownership, or use or transfer of a firearm, firearm
3.28 accessory, or ammunition by law-abiding citizens; and

3.29 (5) any act ordering the confiscation of firearms, firearm accessories, or ammunition
3.30 from law-abiding citizens.

4.1 Sec. 3. **[624.7113] FEDERAL ACTS UNENFORCEABLE.**

4.2 All federal acts, laws, executive orders, administrative orders, court orders, rules, and
4.3 regulations, regardless if enacted before or after the provisions of sections 624.7111 to
4.4 624.7118, that infringe on the people's right to keep and bear arms as guaranteed by
4.5 Amendment II of the Constitution of the United States shall be invalid in this state, shall
4.6 not be recognized by this state, shall be specifically rejected by this state, and shall be
4.7 considered null, void, and of no effect in this state.

4.8 Sec. 4. **[624.7114] DUTY TO PROTECT THE RIGHTS OF LAW-ABIDING**
4.9 **CITIZENS.**

4.10 It shall be the duty of the courts and law enforcement agencies of this state to protect
4.11 the rights of law-abiding citizens to keep and bear arms within the borders of this state and
4.12 to protect these rights from the infringements defined under section 624.7112.

4.13 Sec. 5. **[624.7115] BAR TO LOCAL ENFORCEMENT OF UNCONSTITUTIONAL**
4.14 **FEDERAL DIRECTIVES.**

4.15 (a) No person, including any public officer or employee of this state or any political
4.16 subdivision of this state, shall have the authority to enforce or attempt to enforce any federal
4.17 acts, laws, executive orders, administrative orders, court orders, rules, regulations, statutes,
4.18 or ordinances infringing on the right to keep and bear arms as described under section
4.19 624.7111.

4.20 (b) Any entity or person who acts knowingly to violate the provisions of this section or
4.21 otherwise knowingly deprives a citizen of Minnesota of the rights or privileges ensured by
4.22 Amendment II of the Constitution of the United States, while acting under the color of any
4.23 state or federal law, shall be liable to the injured party in a civil action or other proper
4.24 proceeding for redress. In such actions, the court may award the prevailing party, other than
4.25 the state of Minnesota or any political subdivision of the state, reasonable attorney fees and
4.26 costs. Sovereign, official, or qualified immunity shall not be an affirmative defense in such
4.27 actions.

4.28 Sec. 6. **[624.7116] BAR TO SERVICE AS LAW ENFORCEMENT OFFICER.**

4.29 (a) Any person acting as an official, agent, employee, or deputy of the government of
4.30 the United States, or otherwise acting under the color of federal law within the borders of
4.31 this state, who knowingly:

5.1 (1) enforces or attempts to enforce any of the infringements identified in section 624.1112;
5.2 or

5.3 (2) gives material aid and support to the efforts of others who enforce or attempt to
5.4 enforce any of the infringements identified in section 624.7112 shall be permanently
5.5 ineligible to serve as a law enforcement officer or to supervise law enforcement officers for
5.6 the state or any political subdivision of the state.

5.7 (b) Neither the state nor any political subdivision of the state shall employ as a law
5.8 enforcement officer or supervisor of law enforcement officers any person who is ineligible
5.9 to serve in such capacity under this section.

5.10 (c) Any person residing or conducting business in a jurisdiction who believes that a law
5.11 enforcement officer or supervisor of law enforcement officers of such jurisdiction has taken
5.12 action that would render that officer or supervisor ineligible under this section to serve in
5.13 such capacity shall have standing to pursue an action for declaratory judgment in the district
5.14 court of the county in which the action allegedly occurred with respect to the employment
5.15 eligibility of the law enforcement officer or the supervisor of law enforcement officers under
5.16 this section.

5.17 (d) If a court determines that a law enforcement officer or supervisor of law enforcement
5.18 officers has taken any action that would render the officer or supervisor ineligible to serve
5.19 in that capacity under this section:

5.20 (1) the law enforcement officer or supervisor of law enforcement officers shall
5.21 immediately be terminated from the officer's position; and

5.22 (2) the jurisdiction that had employed the ineligible law enforcement officer or supervisor
5.23 of law enforcement officers shall be required to pay the court costs and attorney fees
5.24 associated with the declaratory judgment action that resulted in the finding of ineligibility.

5.25 (e) Nothing in this section shall preclude a person's right of appeal.

5.26 **Sec. 7. [624.7117] LAW-ABIDING CITIZEN.**

5.27 For the purposes of sections 624.7111 to 624.7118, "law-abiding citizen" means a person
5.28 who is not otherwise precluded under state law from possessing a firearm and shall not be
5.29 construed to include anyone who is not legally present in the United States or the state of
5.30 Minnesota.

6.1 Sec. 8. **[624.7118] SEVERABILITY.**

6.2 If any provision of sections 624.7111 to 624.7118 or the application thereof to any person
6.3 or circumstance is held invalid, such determination shall not affect the provisions or
6.4 applications of sections 624.7111 to 624.7118, which may be given effect without the invalid
6.5 provision or application, and the provisions of sections 624.7111 to 624.7118 are severable.