

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 194**

Introduced by Halloran, 33; Aguilar, 35; Ballard, 21; Bostelman, 23;  
Brandt, 32; Brewer, 43; Briese, 41; Clements, 2; DeKay, 40;  
Dorn, 30; Erdman, 47; Hansen, B., 16; Hardin, 48;  
Holdcroft, 36; Jacobson, 42; Linehan, 39; Lippincott, 34;  
Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Slama, 1.

Read first time January 09, 2023

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to government; to adopt the Second Amendment
- 2 Preservation Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 6 of this act shall be known and may be  
2 cited as the Second Amendment Preservation Act.

3           Sec. 2. The Legislature finds that:

4           (1) The right to keep and bear arms is a fundamental individual  
5 right that shall not be infringed;

6           (2) It is the intent of the Legislature in enacting the Second  
7 Amendment Preservation Act to protect public employees, including law  
8 enforcement officers, from being directed, through any federal firearms  
9 law in effect on or after the effective date of this act, to violate  
10 their oath of office and individual rights affirmed under the Second  
11 Amendment to the Constitution of the United States and Article 1, section  
12 1, of the Constitution of Nebraska;

13           (3) Pursuant to and in furtherance of the principles of federalism  
14 enshrined in the Constitution of the United States, the federal  
15 government shall not commandeer public employees to participate in the  
16 enforcement or facilitation of any federal firearms law;

17           (4) This right to be free from the commandeering hand of the federal  
18 government has been most notably recognized by the Supreme Court of the  
19 United States in 1997 in Printz v. United States when the court held "The  
20 Federal Government may neither issue directives requiring the States to  
21 address particular problems, nor command the States' officers, or those  
22 of their political subdivisions, to administer or enforce a federal  
23 regulatory program"; and

24           (5) The anti-commandeering principles recognized by the Supreme  
25 Court of the United States in Printz v. United States are consonant with  
26 the advice of James Madison who, in Federalist No. 46, advised a "refusal  
27 to co-operate with the officers of the Union" in response to either  
28 unconstitutional federal measures or constitutional but unpopular federal  
29 measures.

30           Sec. 3. For purposes of the Second Amendment Preservation Act:

31           (1) Federal firearms law means any federal act, law, order, rule, or

1 regulation regarding a firearm, firearm accessory, or ammunition if the  
2 substantial equivalent of such act, law, order, rule, or regulation does  
3 not exist under the law of this state; and

4 (2) Public employee means any state officer or any official,  
5 employee, or agent of any state agency or political subdivision.

6 Sec. 4. Except when necessary to comply with an order of a court,  
7 no agency or political subdivision of this state or public employee  
8 acting in such employee's official capacity shall:

9 (1) Participate in any way in the enforcement of any federal  
10 firearms law; or

11 (2) Utilize any public funds to engage in any activity that aids a  
12 federal agency, federal agent, or corporation providing services to the  
13 federal government in the enforcement of, or any investigation pursuant  
14 to the enforcement of, any federal firearms law.

15 Sec. 5. (1) Any public employee who knowingly violates the Second  
16 Amendment Preservation Act shall:

17 (a) For a first violation, be liable for a civil penalty not to  
18 exceed three thousand dollars. Such civil penalty shall be assessed in a  
19 civil action brought for such purpose and shall be remitted to the State  
20 Treasurer for distribution in accordance with Article VII, section 5, of  
21 the Constitution of Nebraska. A civil penalty assessed and unpaid under  
22 this section shall constitute a debt to the State of Nebraska which may  
23 be collected in the manner of a lien foreclosure or sued for and  
24 recovered in any proper form of action in the name of the State of  
25 Nebraska in the district court of the county in which the agent or  
26 employee resides or owns property; and

27 (b) For a second or subsequent violation, be guilty of a Class I  
28 misdemeanor.

29 (2) An action under this section shall be brought within two years  
30 of the alleged violation in the district court of the county in which the  
31 violation occurred or in which the agent or employee resides.

1       (3) For any violation of this section, the Attorney General or  
2 county attorney shall bring and prosecute the appropriate civil or  
3 criminal proceeding.

4       Sec. 6. (1) A political subdivision shall not adopt a rule, order,  
5 ordinance, resolution, or policy under which the political subdivision  
6 intentionally violates the Second Amendment Preservation Act.

7       (2) When notified of an alleged violation of this section, the  
8 Attorney General or county attorney shall institute a civil action in the  
9 district court of the county of such political subdivision to determine  
10 if such violation has occurred. The court may grant preliminary or  
11 permanent injunctive relief as appropriate. Upon a final judicial  
12 determination that such violation has occurred, the court shall enter an  
13 order directing the State Treasurer to withhold all state funds from such  
14 political subdivision for the fiscal year following the year of such  
15 determination. Such withheld funds shall lapse to the General Fund.

16       Sec. 7. If any section in this act or any part of any section is  
17 declared invalid or unconstitutional, the declaration shall not affect  
18 the validity or constitutionality of the remaining portions.