**South Carolina General Assembly**

123rd Session, 2019-2020

**S. 1136**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Talley and Turner

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Introduced in the Senate on February 27, 2020

Currently residing in the Senate Committee on **Judiciary**

Summary: Second Amendment Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/27/2020 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h:\sj\20200227.docx))

2/27/2020 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 8](file:///h:\sj\20200227.docx))

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**VERSIONS OF THIS BILL**

[2/27/2020](file:///p:\pprever\2019-20\1136_20200227.docx)

**A** **BILL**

TO ENACT THE “SECOND AMENDMENT PROTECTION ACT”, TO AMEND CHAPTER 31, TITLE 23 OF THE 1976 CODE, RELATING TO FIREARMS, BY ADDING ARTICLE 9, TO EXCLUDE FROM FEDERAL REGULATION ANY PERSONAL FIREARM, FIREARMS ACCESSORY, OR AMMUNITION MANUFACTURED COMMERCIALLY OR PRIVATELY AND OWNED IN THIS STATE, TO PROVIDE THAT ANY PERSONAL FIREARM, FIREARMS ACCESSORY, OR AMMUNITION IS NOT SUBJECT TO ANY FEDERAL LAW, REGULATION, OR AUTHORITY AS LONG AS IT REMAINS WITHIN THE BORDERS OF THIS STATE, TO PREVENT ANY FEDERAL AGENT OR CONTRACTED EMPLOYEE, ANY STATE EMPLOYEE, OR ANY LOCAL AUTHORITY FROM ENFORCING ANY FEDERAL REGULATION OR LAW GOVERNING ANY PERSONAL FIREARM, FIREARMS ACCESSORY, OR AMMUNITION MANUFACTURED COMMERCIALLY OR PRIVATELY AND OWNED IN THIS STATE AS LONG AS IT REMAINS WITHIN THIS STATE, TO PROHIBIT ARREST OR DETENTION PRIOR TO A TRIAL FOR VIOLATIONS, TO PROVIDE THAT THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF IN COURT TO ENJOIN CERTAIN FEDERAL OFFICIALS FROM ENFORCING FEDERAL LAW REGARDING A FIREARM, A FIREARMS ACCESSORY, OR AMMUNITION THAT IS MANUFACTURED COMMERCIALLY OR PRIVATELY AND OWNED IN THIS STATE AND REMAINS WITHIN THE BORDERS OF THIS STATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be referred to as the “Second Amendment Protection Act”.

SECTION 2. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“ARTICLE 9

Second Amendment Protection

Section 23‑31‑900. The General Assembly declares that its authority to enact this article is contained in the following items:

(1) The Tenth Amendment to the Constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of South Carolina certain powers as they were understood at the time that South Carolina was admitted to the Union. The guaranty of those powers is a matter of contract between the State, the people of South Carolina, and the United States as of the time that South Carolina was admitted to the Union.

(2) The Ninth Amendment to the Constitution of the United States guarantees to the people rights not granted in the Constitution and reserves to the people of South Carolina certain rights as they were understood at the time that South Carolina was admitted to the Union. The guaranty of those rights is a matter of contract between the State, the people of South Carolina, and the United States.

(3) The Second Amendment to the Constitution of the United States reserves to the people, individually, the right to keep and bear arms as that right was understood at the time that South Carolina was admitted to the Union, and the guaranty of that right is a matter of contract between the State, the people of South Carolina, and the United States as of the time South Carolina was admitted to the Union.

(4) Section 20, Article 1 of the Constitution of the State of South Carolina, 1895, clearly secures to South Carolina citizens, and prohibits governmental interference with, the right of individual South Carolina citizens to keep and bear arms.

Section 23‑31‑910. As contained in this article:

(1) ‘Borders of South Carolina’ means the boundaries of South Carolina contained in Section 1‑1‑10.

(2) ‘Firearms accessories’ means items that are used in conjunction with or mounted upon a firearm but that are not essential to the basic function of a firearm, including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, collapsible or adjustable stocks and grips, pistol grips, thumbhole stocks, speed loaders, ammunition carriers, and lights for target illumination.

(3) ‘Manufacture’ means to assemble using multiple components to create a more useful finished product.

Section 23‑31‑920. (A) A personal firearm, a firearms accessory, or ammunition that is manufactured commercially or privately and owned in South Carolina and remains within the borders of South Carolina is not subject to any federal law, treaty, federal regulation, or federal executive action, including any federal firearm or ammunition registration program, under the authority of Congress to regulate interstate commerce. It is declared by the General Assembly that those items have not traveled in interstate commerce. This section applies to a firearm, a firearms accessory, or ammunition that is manufactured commercially or privately and owned in the State of South Carolina.

(B) Component parts are not firearms, firearms accessories, or ammunition, and their importation into South Carolina and incorporation into a firearm, a firearms accessory, or ammunition manufactured and owned in South Carolina does not subject the firearm, firearms accessory, or ammunition to federal regulation. It is declared by the General Assembly that these component parts are not firearms, firearms accessories, or ammunition and are not subject to the congressional authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were actually firearms, firearms accessories, or ammunition.

(C) Firearms accessories that are imported into South Carolina from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in South Carolina.

Section 23‑31‑930. A firearm manufactured in South Carolina within the meaning of this article must have the words ‘Made in South Carolina’ clearly stamped on a central metallic part, such as the receiver or frame.

Section 23‑31‑940. (A) Any act, law, treaty, order, rule, or regulation of the government of the United States that violates the Second Amendment to the Constitution of the United States is null, void, and unenforceable in the State of South Carolina.

(B) No official, agent, or employee of the State of South Carolina, or any political subdivision of it, shall enforce or attempt to enforce any act, law, treaty, order, rule, or regulation of the government of the United States regarding any personal firearm, firearms accessory, or ammunition that is manufactured commercially or privately and owned in the State of South Carolina and remains within the borders of South Carolina.

Section 23‑31‑950. It is unlawful for any official, agent, or employee of the government of the United States, or any employee of a corporation providing services to the government of the United States, to enforce or attempt to enforce any act, law, treaty, order, rule, or regulation of the government of the United States regarding a firearm, a firearms accessory, or ammunition that is manufactured commercially or privately and owned in the State of South Carolina and remains within the borders of South Carolina. A person who violates this section is guilty of a Class A felony. Any criminal prosecution for a violation of this section must be commenced by service of complaint and summons upon the official, agent, or employee. The official, agent, or employee must not be arrested or otherwise detained prior to, or during the pendency of, any trial for a violation of this section.

Section 23‑31‑960. The Attorney General may seek injunctive relief in any court of competent jurisdiction to enjoin any official, agent, or employee of the government of the United States or employee of a corporation providing services to the government of the United States from enforcing any act, law, treaty, order, rule, or regulation of the government of the United States regarding a firearm, a firearms accessory, or ammunition that is manufactured commercially or privately and owned in the State of South Carolina and remains within the borders of South Carolina.

Section 23‑31‑970. This article does not apply to:

(1) a firearm that cannot be carried and used by one person;

(2) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(3) other than shotguns, a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.

Section 23‑31‑980. This article applies to firearms, firearms accessories, and ammunition that are manufactured, owned, and remain within the borders of South Carolina on and after October 1, 2009.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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