AN ACT concerning firearms; creating the Kansas gun rights preservation act; prohibiting the infringement of the right to keep and bear arms by the federal government.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The provisions of sections 1 through 8, and amendments thereto, shall be known and may be cited as the Kansas gun rights preservation act.

Sec. 2. The legislature hereby finds and declares that:
   (a) The legislature of the state of Kansas is firmly resolved to support and defend the constitution of the United States against every aggression, whether foreign or domestic, and is duty-bound to oppose every infraction of those principles that constitute the basis of the union of the states because only a faithful observance of those principles can secure the union's existence and the public happiness;
   (b) acting through the constitution of the United States, the people of the several states created the federal government to be their agent in the exercise of a few defined powers, while reserving for the state governments the power to legislate on matters concerning the lives, liberties and properties of citizens in the ordinary course of affairs;
   (c) the limitation of the federal government's power is affirmed under amendment X to the constitution of the United States, which defines the total scope of federal powers as being those that have been delegated by the people of the several states to the federal government and all powers not delegated to the federal government in the constitution of the United States are reserved to the states respectively or the people themselves;
   (d) if the federal government assumes powers that the people did not delegate in the constitution of the United States, its acts are unauthoritative, void and of no force;
   (e) the several states of the United States respect the proper role of the federal government but reject the proposition that such respect requires unlimited submission. If the federal government, created by a compact among the states, were the exclusive or final judge of the extent of the powers delegated to it by the states through the constitution of the United States, the federal government's discretion, and not the constitution of the United States, would necessarily become the measure of those powers. To
the contrary, as in all other cases of compacts among powers having no
common judge, each party has an equal right to judge for itself as to
whether infractions of the compact have occurred, as well as to determine
the mode and measure of redress. Although the several states have granted
supremacy to laws and treaties made under the powers delegated in the
constitution of the United States, such supremacy does not extend to
various federal statutes, executive orders, administrative orders, court
orders, rules, regulations or other actions that collect data or restrict or
prohibit the manufacture, ownership or use of firearms, firearm accessories
or ammunition exclusively within the borders of Kansas. Such statutes,
executive orders, administrative orders, court orders, rules, regulations and
other actions exceed the powers delegated to the federal government;

(f) the people of the several states delegated to congress the power "to
regulate commerce with foreign nations, and among the several states," but
"regulating commerce" does not include any power to limit citizens' right
to keep and bear arms in defense of their families, neighbors, persons or
property nor to dictate what sorts of arms and accessories law-abiding
Kansans may buy, sell, exchange or otherwise possess within the borders
of this state;

(g) the people of the several states also delegated to congress the
powers "to lay and collect taxes, duties, imports, and excises, to pay the
debts, and provide for the common defense and general welfare of the
United States" and "to make all laws which shall be necessary and proper
for carrying into execution the powers vested by the Constitution of the
United States in the government of the United States, or in any department
or office thereof." These constitutional provisions merely identify the
means by which the federal government may execute its limited powers
and shall not be construed to grant unlimited power because to do so
would be to destroy the carefully constructed equilibrium between the
federal and state governments. Consequently, the state legislature rejects
any claim that the taxing and spending powers of congress may be used to
diminish in any way the right of the people to keep and bear arms;

(h) the federal excise tax rate on arms and ammunition in effect prior
to January 1, 2021, that funds programs under the wildlife restoration act,
does not have a chilling effect on the purchase or ownership of such arms
and ammunition;

(i) the people of Kansas have vested the legislature with the authority
to regulate the manufacture, possession, exchange and use of firearms
within the borders of this state, subject only to the limits imposed by
amendment II to the constitution of the United States and the constitution
of the state of Kansas; and

(j) the legislature strongly promotes responsible gun ownership,
including parental supervision of minors in the proper use, storage and
ownership of all firearms, the prompt reporting of stolen firearms and the proper enforcement of all state gun laws. The legislature hereby condemns any unlawful transfer of firearms and the use of any firearm in any criminal or unlawful activity pursuant to the constitution of the state of Kansas.

Sec. 3. (a) The following federal acts, laws, executive orders, administrative orders, rules and regulations shall be considered infringements on the right of the people to keep and bear arms within the borders of this state, as guaranteed by amendment II to the constitution of the United States and section 4 of the bill of rights of the constitution of the state of Kansas:

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

(2) any registration or tracking of firearms, firearm accessories or ammunition;

(3) any registration or tracking of the ownership of firearms, firearm accessories or ammunition;

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

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

(b) All federal acts, laws, executive orders, administrative orders, rules and regulations, whether enacted prior to or after the effective date of the Kansas gun rights preservation act, that violate subsection (a) shall be invalid and unenforceable in this state.

(c) It shall be the duty of the courts of this state and all law enforcement agencies to protect the rights of law-abiding citizens to keep and bear arms within the borders of this state and to protect such rights from infringement as set forth in subsection (a).

Sec. 4. (a) No person, including any officer or employee of any state agency or any political subdivision of this state, shall have the authority to enforce or attempt to enforce any federal acts, laws, executive orders, administrative orders, rules and regulations that violate section 3, and amendments thereto.

(b) Any law enforcement agency or political subdivision of this state that employs a law enforcement officer who violates this section or otherwise infringes on an individual's rights ensured by amendment II to the constitution of the United States or section 4 of the bill of rights of the constitution of the state of Kansas while acting under the color of any state or federal law shall be liable to such individual for any damages resulting from such infringement and subject to a civil penalty of $50,000 for each
occurrence. Each infringement with respect to a firearm, firearm accessory
or container of ammunition shall constitute a separate occurrence. Any
individual aggrieved by a violation of this section may bring an action in a
court of competent jurisdiction for injunctive and other relief. Upon the
filing of a motion for a temporary or permanent injunction, the court shall
hold a hearing on such motion within 30 days of service of such motion on
the defendant.

(c) The court may award reasonable attorney fees and court costs to
the prevailing party in any action filed pursuant to this section unless such
prevailing party is the state of Kansas or any political subdivision thereof.

(d) Sovereign immunity shall not be an affirmative defense in any
action filed pursuant to this section.

Sec. 5. (a) Any law enforcement agency or political subdivision of
this state that employs an individual, acting or who previously acted as an
official, agent, employee or deputy of the government of the United States,
or otherwise acted under the color of federal law within the borders of this
state after the effective date of this section, who enforced or attempted to
enforce or who gave material aid and support to the efforts of another
individual or agency of the government of the United States who enforced
or attempted to enforce any federal act, law, executive order, administrative order, rule or regulation in violation of section 3, and
amendments thereto, shall be subject to a civil penalty of $50,000 for each
such employee.

(b) Any person who believes that an individual has violated this
section may file an action in a court of competent jurisdiction for
injunctive relief. Upon the filing of a motion for a temporary or permanent
injunction, the court shall hold a hearing on such motion within 30 days of
service of such motion on the defendant.

(c) The court may award reasonable attorney fees and court costs to
the prevailing party in any action filed pursuant to this section unless such
prevailing party is the state of Kansas or any political subdivision thereof.

(d) Sovereign immunity shall not be an affirmative defense in any
action filed pursuant to this section.

(e) It shall not be a violation of this section:

(1) To provide material aid and support to federal law enforcement
agencies that are in pursuit of a suspect when there is a demonstrable
criminal nexus with another foreign jurisdiction and such suspect is either
not a citizen of this state or is not present in this state; or

(2) to provide material aid and support to any United States attorney
or assistant United States attorney in the prosecution of felony crimes
substantially similar to any crime described in article 57, 58 or 63 of
chapter 21 of the Kansas Statutes Annotated, and amendments thereto, that
includes the possession of a firearm or other weapon if the charges are not
solely for the possession or use of such firearm or weapon.

Sec. 6. Nothing in sections 3 through 5, and amendments thereto, shall be construed to prohibit any law enforcement agency from accepting aid from any federal law enforcement agency in an effort to enforce the laws of this state made in pursuance to the constitution of the United States and the constitution of the state of Kansas.

Sec. 7. As used in sections 1 through 6, and amendments thereto:

(a) "Law-abiding citizen" means a person who is not otherwise precluded under state law from possessing a firearm. "Law-abiding citizen" does not include any person who is not legally present in the United States; and

(b) (1) "material aid and support" includes voluntarily giving or allowing others to make use of lodging, communications equipment or services, including social media accounts, facilities, weapons, personnel, transportation, clothing or other physical assets; and

(2) "material aid and support" does not include giving or allowing the use of medicine or other materials necessary to treat physical injuries or any assistance provided to help persons escape a serious, present risk of life-threatening injury.

Sec. 8. If any provision of the Kansas gun rights preservation act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of such act that can be given effect without the invalid provision or application and to this end the provisions of the Kansas gun rights preservation act are hereby declared to be severable.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.