

South Carolina General Assembly
124th Session, 2021-2022

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Bill 614

~~Indicates Matter Stricken~~

Indicates New Matter

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AMENDED

May 10, 2022

S. 614

Introduced by Senators Corbin, Loftis, Kimbrell, Garrett, Rice, Adams, Gustafson, Verdin and Cromer

S. Printed 5/10/22--S.

Read the first time February 25, 2021.

A BILL

TO AMEND ARTICLE 1, CHAPTER 1, TITLE 25 OF THE 1976 CODE, RELATING TO THE MILITARY CODE, BY ADDING SECTION 25-1-80, TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE SOUTH CAROLINA UNORGANIZED MILITIA.

Amend Title To Conform

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

SECTION 1. This act shall be referred to and cited as the "Second Amendment Protection Act".

SECTION 2. The General Assembly finds that this act ensures that the South Carolina unorganized militia is "a well regulated militia" pursuant to Section 20, Article I of the South Carolina Constitution and the United States Constitution and further ensures that the unorganized militia is imbued with the rights and privileges guaranteed to the militia and its members in the South Carolina Constitution and the United States Constitution.

SECTION 3. Article 1, Chapter 1, Title 25 of the 1976 Code is amended by adding:

"Section 25-1-80. (A) For the purposes of this section, 'firearm' shall include, but is not limited to, a rifle; shotgun; handgun; and magazines, clips, components, parts, accessories, or ammunition required for, fitted to, or useable with an authorized rifle, shotgun, or handgun that meets the criteria established in subsection (D)(2).

(B) Pursuant to the provisions of Section 25-1-60, an able-bodied citizen of this State who is at least eighteen years of age and who can legally purchase a firearm is deemed a member of the unorganized militia, unless he is already a member of the National Guard or the organized militia not in National Guard service.

(C) The unorganized militia will be responsive to the Governor, as provided in Section 3, Article XIII of the South Carolina Constitution, and to the Adjutant General and shall be regulated through the actions of the General Assembly.

(D) The rights, powers, duties, and immunities of the unorganized militia and its members include the following:

(1) the unorganized militia may be ordered to active duty pursuant to the provisions of Section 25-1-1890;

(2) an unorganized militia member, at his own expense, has the right to furnish himself with, and maintain at all times in his own possession, or subject to his control:

(a) any firearm that could be legally acquired or possessed by a South Carolina citizen as of December 31, 2020; and

(b) any firearm protected by the Second Amendment to the United States Constitution, including, but not limited to, any firearm that has some reasonable relationship to the preservation or efficiency of a well-regulated militia, that is any part of ordinary military equipment, or that could contribute to the common defense;

(3) the unorganized militia is not subject to any law or regulation, or to the jurisdiction of any person or entity, outside of South Carolina, except that:

(a) as an instrumentality of this State, the unorganized militia, and its members, are entitled to each exemption, exception, or exclusion for a state and its political subdivisions provided for in the laws of the United States that, in any manner, regulates the manufacture, repair, sale, purchase, possession, transfer, or receipt of a firearm; and

(b) the unorganized militia may be employed in the service of the United States to enforce any statute enacted pursuant to the congressional authority to provide for calling forth the militia to execute the laws of the United States, suppress insurrections, and repel invasions pursuant to Article I, Section 8, Clauses 15 and 16 of the United States Constitution; and

(4) a member of the unorganized militia who has a conscientious objection to the personal possession of a firearm is exempt from the provisions contained in subsection (D)(2)."

SECTION 4. 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 5. This act takes effect upon approval by the Governor.

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