**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3012**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. White, Burns, Chumley, Magnuson, Taylor, B. Cox, Haddon, Long, Forrest, Thayer, May, Dabney, Hardee, McCabe, Jones, Herbkersman, W. Cox, Huggins, Crawford, W. Newton, G.M. Smith, Bradley, Trantham, D.C. Moss, Bryant, G.R. Smith, Martin, Davis, McCravy, Kimmons, Hixon, Gagnon, West, Atkinson, Sandifer, Whitmire, Yow, Lowe, Jordan, Fry, McGinnis, Erickson, Simrill, Wooten, Ballentine, Caskey, Willis, Pope and M.M. Smith

Document Path: l:\council\bills\gt\5878cm21.docx

Companion/Similar bill(s): 369

Introduced in the House on January 12, 2021

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

Summary: Second Amendment Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 House Prefiled

12/9/2020 House Referred to Committee on **Judiciary**

1/12/2021 House Introduced and read first time ([House Journal‑page 37](file:///h:\hj\20210112.docx))

1/12/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 37](file:///h:\hj\20210112.docx))

1/14/2021 House Member(s) request name added as sponsor: May, Dabney

1/26/2021 House Member(s) request name added as sponsor: Hardee

1/27/2021 House Member(s) request name added as sponsor: McCabe

2/2/2021 House Member(s) request name added as sponsor: Jones

2/3/2021 House Member(s) request name added as sponsor: Herbkersman

2/11/2021 House Member(s) request name added as sponsor: W.Cox

2/16/2021 House Member(s) request name added as sponsor: Huggins

2/18/2021 House Member(s) request name added as sponsor: Crawford, W.Newton

2/24/2021 House Member(s) request name added as sponsor: G.M.Smith

2/25/2021 House Member(s) request name added as sponsor: Bradley, Trantham, D.C.Moss, Bryant, G.R.Smith, Martin, Davis, McCravy, Kimmons, Hixon, Gagnon, West, Atkinson, Sandifer, Whitmire, Yow, Lowe, Jordan, Fry, McGinnis, Erickson, Simrill, Wooten, Ballentine, Caskey

3/2/2021 House Member(s) request name added as sponsor: Willis

3/17/2021 House Member(s) request name added as sponsor: Pope

3/22/2021 House Member(s) request name added as sponsor: M.M.Smith

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\3012_20201209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 31, TITLE 23 SO AS TO ENACT THE “SECOND AMENDMENT PROTECTION ACT”, TO EXCLUDE FROM FEDERAL REGULATION ANY PERSONAL FIREARM, FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED COMMERCIALLY OR PRIVATELY AND OWNED IN THIS STATE, TO PROVIDE AS LONG AS ANY PERSONAL FIREARM, FIREARM ACCESSORY, OR AMMUNITION REMAINS WITHIN THE BORDERS OF THIS STATE, IT IS NOT SUBJECT TO ANY FEDERAL LAW, REGULATION, OR AUTHORITY, 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, FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED COMMERCIALLY OR PRIVATELY AND OWNED IN THIS STATE, AS LONG AS IT REMAINS WITHIN THIS STATE, TO PROHIBIT THE ARREST OR DETENTION PRIOR TO A TRIAL FOR A VIOLATION OF THIS ARTICLE, TO PROVIDE THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF IN COURT TO ENJOIN CERTAIN FEDERAL OFFICIALS FROM ENFORCING FEDERAL LAW REGARDING A FIREARM, A FIREARM 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. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 9

Second Amendment Protection Act

Section 23‑31‑900. This article may be referred to as the ‘Second Amendment Protection Act’.

Section 23‑31‑910. The General Assembly declares 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, 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, 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, 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 23‑31‑920. 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 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 23‑31‑930. (A) A personal firearm, a firearm 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 firearm 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 firearm accessory, or ammunition manufactured and owned in South Carolina does not subject the firearm, firearm 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 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 23‑31‑940. 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 23‑31‑950. (A) Any act, law, treaty, order, rule, or regulation of the government of the United States which 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, firearm 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 23‑31‑1000. It is unlawful for 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 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 firearm 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 23‑31‑1010. 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 firearm 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 23‑31‑1020. 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 23‑31‑1030. 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 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, 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 , 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 3. This act takes effect upon approval by the Governor.

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