

1 INTERIM STUDY PROPOSAL 2009-178

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3 REQUESTING THE ARKANSAS LEGISLATIVE COUNCIL REQUEST THE HOUSE  
4 INTERIM COMMITTEE ON JUDICIARY STUDY THE APPLICATION OF THE  
5 SECOND, NINTH, AND TENTH AMENDMENTS OF THE UNITED STATES  
6 CONSTITUTION AND THEIR APPLICATION TO THE REGULATION OF FIREARMS,  
7 FIREARM ACCESSORIES, OR AMMUNITION MANUFACTURED COMMERCIALY OR  
8 PRIVATELY IN THE STATE OF ARKANSAS THAT REMAIN WITHIN THE BORDERS  
9 OF THE STATE OF ARKANSAS.

10  
11 WHEREAS, the 10th Amendment to the United States Constitution  
12 guarantees to the states and their people all powers not granted to the  
13 federal government elsewhere in the constitution and reserves to the state  
14 and people of Arkansas certain powers as they were understood at the time  
15 that Arkansas was admitted to statehood in 1836; and

16  
17 WHEREAS, the 9th Amendment to the United States Constitution guarantees  
18 to the people rights not granted in the constitution and reserves to the  
19 people of Arkansas certain rights as they were understood at the time that  
20 Arkansas was admitted to statehood in 1836; and

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22 WHEREAS, the regulation of intrastate commerce is vested in the states  
23 under the 9th and 10th amendments to the United States constitution,  
24 particularly if not expressly preempted by federal law. Congress has not  
25 expressly preempted state regulation of intrastate commerce pertaining to the  
26 manufacture on an intrastate basis of firearms, firearms accessories, and  
27 ammunition; and

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29 WHEREAS, the 2nd Amendment to the United States Constitution reserves  
30 to the people the right to keep and bear arms as that right was understood at  
31 the time that Arkansas was admitted to statehood in 1836, and the guaranty of  
32 the right is a matter of contract between the state and people of Arkansas  
33 and the United States as of the time that the compact with the United States  
34 was agreed upon and adopted by Arkansas and the United States in 1836; and

35  
36 WHEREAS, Article II, section 5, of the Arkansas Constitution clearly

1 secures to Arkansas citizens, and prohibits government interference with, the  
2 right of individual Arkansas citizens to keep and bear arms. This  
3 constitutional protection is unchanged from the 1874 Arkansas constitution,  
4 which was approved by congress and the people of Arkansas, and the right  
5 exists as it was understood at the time that the compact with the United  
6 States was agreed upon and adopted by Arkansas and the United States upon  
7 Arkansas' entrance into the Union,

8  
9 NOW THEREFORE,

10 BE IT PROPOSED BY THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-SEVENTH  
11 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12  
13 THAT the Arkansas Legislative Council request the House Interim  
14 Committee on Judiciary study the application of the 2nd, 9th, and 10th  
15 Amendments to the United States Constitution and their application to the  
16 regulation of firearms, firearm accessories, or ammunition manufactured and  
17 retained in the State of Arkansas.

18  
19 THAT the House Interim Committee on Judiciary specifically address the  
20 federal government's regulatory powers under the Commerce Clause of the  
21 United States Constitution and how that power intersects and interacts with  
22 the rights specifically reserved by the Arkansas Constitution.

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24 Respectfully submitted,

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28 Representative Bryan King  
29 District 91

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36 Filed Date: 05/13/2009 By: BPG/bpg