

**SUBSTITUTE FOR THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 38  
OFFERED BY MR. MASSIE OF KENTUCKY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “National Constitu-  
3 tional Carry Act”.

**4 SEC. 2. FINDINGS.**

5       Congress finds the following:

6           (1) Recognizing the preexisting right to self-de-  
7 fense, the Second Amendment to the Constitution of  
8 the United States guarantees individually to Amer-  
9 ican citizens the right “to keep and bear arms”, in-  
10 cluding the right to bear arms in public.

11           (2) The Second Amendment decrees that these  
12 rights to keep and bear arms “shall not be in-  
13 fringed”, and was enumerated in order to preserve  
14 “the security of a free State”.

15           (3) In *District of Columbia v. Heller* (554 U.S.  
16 570, 595 (2008)), the Supreme Court confirmed  
17 that “[t]here seems to us no doubt, on the basis of  
18 both text and history, that the Second Amendment

1 conferred an individual right to keep and bear  
2 arms”.

3 (4) In *McDonald v. City of Chicago* (561 U.S.  
4 742, 791 (2010)), the Supreme Court ruled that the  
5 Fourteenth Amendment makes the Second Amend-  
6 ment fully applicable to the States. Four Justices  
7 concluded that the rights protected by the Second  
8 Amendment are fundamental to the Nation’s scheme  
9 of ordered liberty and deeply rooted in this Nation’s  
10 “history and tradition”, and therefore incorporated  
11 to the States through the Due Process Clause of the  
12 Fourteenth Amendment. Justice Thomas agreed  
13 that the rights protected by the Second Amendment  
14 are both “fundamental” and “deeply rooted” and, as  
15 such, are enforceable against the States under the  
16 Fourteenth Amendment’s Privileges and Immunities  
17 Clause.

18 (5) Recently, the Supreme Court acknowledged  
19 in *New York State Rifle & Pistol Ass’n v. Bruen*  
20 (142 S. Ct. 2111, 2156 (2022)), that the Second  
21 and Fourteenth Amendments protect the individual  
22 right to carry arms outside the home for self-de-  
23 fense. Further, the Court reiterated that the Second  
24 Amendment’s otherwise “unqualified command” only  
25 accommodates laws that are “consistent with this

1 Nation’s historical tradition of firearm regulation”  
2 (Id. at 2126).

3 (6) Certain States and localities have enacted  
4 gun control laws that are not consistent with the  
5 text of the Second Amendment or this Nation’s his-  
6 torical tradition of firearm regulation. The criminal-  
7 ization of peaceable, public firearms carry is repug-  
8 nant to the original meaning of the Second Amend-  
9 ment.

10 (7) Any State or local restriction on the right  
11 of American citizens to keep and bear arms impairs  
12 the ability of the Second Amendment to achieve its  
13 textually specified purpose, “the security of a free  
14 State”.

15 **SEC. 3. THE RIGHT TO KEEP AND BEAR ARMS.**

16 (a) IN GENERAL.—Section 927 of title 18, United  
17 States Code, is amended to read as follows:

18 **“§ 927. The right to keep and bear arms**

19 “(a) No State or political subdivision of a State may  
20 impose a criminal or civil penalty on, or otherwise indi-  
21 rectly limit the carrying of firearms (including by imposing  
22 a financial or other barrier to entry) in public by residents  
23 or nonresidents of that State who are citizens of the  
24 United States and otherwise eligible to possess firearms  
25 under State and Federal law.

1       “(b) Any statute, ordinance, regulation, custom, or  
2 usage of a State or a political subdivision of a State that  
3 criminalizes, penalizes, or otherwise indirectly dissuades  
4 the carrying of firearms (including by imposing a financial  
5 or other barrier to entry) in public by any resident or non-  
6 resident who is a United States citizen and otherwise eligi-  
7 ble to possess firearms under State and Federal law, shall  
8 have no force or effect.

9       “(c) The term ‘State’ as used in this section includes  
10 the District of Columbia, the Commonwealth of Puerto  
11 Rico, and the possessions of the United States (not includ-  
12 ing the Canal Zone).

13       “(d) The term ‘public’ as used in this section—

14               “(1) includes any place held open to the public,  
15 regardless of ownership, but in the case of a pri-  
16 vately-owned location held open to the public, does  
17 not include a place where the owner communicates  
18 clearly and conspicuously a prohibition of firearms  
19 on the premises; and

20               “(2) does not include a place where screening  
21 for firearms is conducted under State law.”.

22       (b) CLERICAL AMENDMENT.—The table of sections  
23 for such chapter is amended by striking the item relating  
24 to section 927 and inserting the following:

“927. The right to keep and bear arms.”.

Amend the title so as to read: “A bill to enforce the rights protected by the Second and Fourteenth Amendments against the States.”.

