

IN THE SENATE

SENATE BILL NO. 1430

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO FIREARMS; AMENDING SECTION 18-3302J, IDAHO CODE, TO REVISE A
2 PROVISION REGARDING PREEMPTION OF FIREARMS REGULATION, TO PROVIDE A
3 PENALTY, AND TO PROVIDE FOR A CAUSE OF ACTION; AND DECLARING AN EMER-
4 GENCY.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 18-3302J, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 18-3302J. PREEMPTION OF FIREARMS REGULATION. (1) The legislature
10 finds that uniform laws regulating firearms are necessary to protect the
11 individual citizen's right to bear arms guaranteed by amendment 2 of the
12 United States Constitution and section 11, article I of the constitution of
13 the state of Idaho. It is the legislature's intent to wholly occupy the field
14 of firearms regulation within this state.

15 (2) Except as expressly authorized by state statute, no county, city,
16 agency, board or any other political subdivision of this state may adopt or
17 enforce any law, rule, regulation, ~~or ordinance, executive order, or policy~~
18 which regulates in any manner the sale, acquisition, transfer, ownership,
19 possession, transportation, carrying or storage of firearms or any element
20 relating to firearms and components thereof, including ammunition. Any such
21 law, rule, regulation, ordinance, executive order, or policy shall be void,
22 unenforceable, and subject to a permanent injunction against the political
23 subdivision, as provided in subsection (7) of this section. It shall not be a
24 defense to a violation of this subsection that the political subdivision was
25 acting in good faith or on the advice of counsel.

26 (3) A county may adopt ordinances to regulate, restrict or prohibit the
27 discharge of firearms within its boundaries. Ordinances adopted under this
28 subsection may not apply to or affect:

- 29 (a) A person discharging a firearm in the lawful defense of person or
30 persons or property;
- 31 (b) A person discharging a firearm in the course of lawful hunting;
- 32 (c) A landowner and guests of the landowner discharging a firearm, when
33 the discharge will not endanger persons or property;
- 34 (d) A person lawfully discharging a firearm on a sport shooting range as
35 defined in section 55-2604, Idaho Code; or
- 36 (e) A person discharging a firearm in the course of target shooting on
37 public land if the discharge will not endanger persons or property.

38 (4) A city may adopt ordinances to regulate, restrict or prohibit the
39 discharge of firearms within its boundaries. Ordinances adopted under this
40 subsection may not apply to or affect:

- 41 (a) A person discharging a firearm in the lawful defense of person or
42 persons or property; or

1 (b) A person lawfully discharging a firearm on a sport shooting range as
2 defined in section 55-2604, Idaho Code.

3 (5) This section shall not be construed to affect:

4 (a) The authority of the department of fish and game to make rules or
5 regulations concerning the management of any wildlife of this state, as
6 set forth in section 36-104, Idaho Code; and

7 (b) The authority of counties and cities to regulate the location and
8 construction of sport shooting ranges, subject to the limitations con-
9 tained in chapter 26, title 55, Idaho Code.

10 (6) Any county, city, agency, board, or any other political subdivision
11 of this state that willfully and knowingly violates the provisions of this
12 section shall be subject to a civil penalty of ten thousand dollars (\$10,000)
13 per violation.

14 (7) The attorney general or any person or organization whose membership
15 is adversely affected by a law, rule, regulation, ordinance, executive or-
16 der, or policy that violates the provisions of this section may maintain an
17 action for damages, declaratory relief, or permanent injunctive relief. The
18 plaintiff shall be awarded reasonable costs and attorney's fees upon pre-
19 vailing or if the law, rule, regulation, ordinance, executive order, or pol-
20 icy is repealed or rescinded after the action was filed but prior to a final
21 determination by the court. Any person or organization who wishes to main-
22 tain an action pursuant to the provisions of this subsection shall, prior to
23 filing, provide advanced written notice to the attorney general who shall
24 have thirty (30) days to investigate if a violation has occurred. If a viola-
25 tion is found, the attorney general shall notify the offending jurisdiction
26 that it has thirty (30) days to cure the violation, and if the jurisdiction
27 fails to do so within thirty (30) days, the cause of action may proceed.

28 ~~(6)~~ (8) The provisions of this section are hereby declared to be sever-
29 able. And if any provision is declared invalid for any reason, such declara-
30 tion shall not affect the validity of the remaining portions of this section.

31 SECTION 2. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after its
33 passage and approval.