

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 5

Session of 2017

INTRODUCED BY LANGERHOLC, ALLOWAY, BARTOLOTTA, GORDNER, EICHELBERGER, FOLMER, RAFFERTY, STEFANO, MARTIN, HUTCHINSON, SCARNATI, WARD, AUMENT, VULAKOVICH, YAW, SCAVELLO, RESCHENTHALER, ARGALL, DISANTO, WAGNER, MENSCH, WHITE, BREWSTER, VOGEL, REGAN AND BROOKS, MARCH 2, 2017

AS AMENDED ON THIRD CONSIDERATION, APRIL 25, 2017

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in general provisions, providing for
3 findings regarding firearms and ammunition; and, in
4 preemptions, providing for regulation of firearms and
5 ammunition.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 53 of the Pennsylvania Consolidated
9 Statutes is amended by adding sections to read:

10 § 102. Findings regarding firearms and ammunition.

11 The General Assembly finds and declares as follows:

12 (1) It is proper for law-abiding people to protect
13 themselves, their families and others from intruders and
14 attackers without fear of prosecution or civil action for
15 acting in defense of themselves and others.

16 (2) Section 21 of Article I of the Constitution of
17 Pennsylvania guarantees that the "right of the citizens to
18 bear arms in defense of themselves and the State shall not be

1 questioned."

2 (3) Commonwealth law currently limits regulation of  
3 firearms, ammunition and ammunition components by political  
4 subdivisions in order to further the right guaranteed by  
5 section 21 of Article I of the Constitution of Pennsylvania.

6 (4) Unlawful regulation of firearms, ammunition and  
7 ammunition components by political subdivisions and the  
8 threat of citation, prosecution or other legal process posed  
9 by unlawful regulation interfere with this right.

10 (5) This interference with the right guaranteed by  
11 section 21 of Article I of the Constitution of Pennsylvania  
12 unduly inhibits law-abiding people from protecting  
13 themselves, their families and others from intruders and  
14 attackers and from other legitimate uses of constitutionally  
15 protected arms, including hunting and sporting activities.

16 § 305. Regulation of firearms and ammunition.

17 (a) Preemption.--

18 (1) The General Assembly has always intended and  
19 continues to intend to occupy the entire field of regulation  
20 of firearms, ammunition, firearms components and ammunition  
21 components in this Commonwealth, including the purchase,  
22 sale, transfer, taxation, manufacture, ownership, possession,  
23 transportation and reporting of loss or theft of firearms,  
24 ammunition, firearms components and ammunition components in  
25 this Commonwealth, to the exclusion of an existing or future  
26 ordinance, regulation, rule or other directive adopted by a  
27 political subdivision. The Commonwealth by this section  
28 preempts and supersedes any local regulation by a political  
29 subdivision of firearms, ammunition, firearms components or  
30 ammunition components in this Commonwealth, and any such

1 local regulation is declared null and void.

2 (2) The provisions of section 2962(g) (relating to  
3 limitation on municipal powers) and 18 Pa.C.S. § 6120(a)  
4 (relating to limitation on the regulation of firearms and  
5 ammunition) shall preempt and supersede a local ordinance,  
6 resolution, regulation, rule, practice or other action  
7 insofar as the local ordinance, resolution, regulation, rule,  
8 practice or other action is inconsistent with the provisions  
9 of section 2962(g) or 18 Pa.C.S. § 6120(a).

10 (b) Relief.--The following shall apply:

11 (1) A person adversely affected by any manner of  
12 ordinance, resolution, rule, practice or other action  
13 promulgated or enforced by a county or municipality in  
14 violation of section 2962(g) or 18 Pa.C.S. § 6120(a) may seek  
15 declarative and injunctive relief and the actual damages  
16 attributable to the violation in an appropriate court.

17 (2) The court shall award reasonable expenses to the  
18 person adversely affected if an action under paragraph (1)  
19 results in:

20 (i) a final determination by a court in favor of the  
21 person adversely affected; or

22 (ii) rescission or repeal of the challenged manner  
23 of regulation or enforcement after suit has been filed  
24 under paragraph (1) but prior to a final determination by  
25 a court.

26 (c) Definitions.--As used in this section, the following  
27 words and phrases shall have the meanings given to them in this  
28 subsection unless the context clearly indicates otherwise:

29 "Person adversely affected." Any of the following:

30 (1) A person who has standing under the laws of this

1 Commonwealth to bring an action under subsection (b) (1).

2 (2) A resident of this Commonwealth who may legally  
3 possess a firearm under the laws of this Commonwealth and the  
4 United States.

5 (3) A membership organization, the members of which  
6 include a person described under paragraph (1) or (2).

7 "Reasonable expenses." The term includes, but is not limited  
8 to, attorney fees, expert witness fees, court costs and  
9 compensation for loss of income.

10 SECTION 2. WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS <--  
11 SECTION, THE ATTORNEY GENERAL SHALL NOTIFY IN WRITING ALL  
12 MUNICIPALITIES OF THE PROVISIONS OF 53 PA.C.S. § 305.

13 Section ~~2~~ 3. This act shall take effect ~~in 60 days.~~ AS <--  
14 FOLLOWS:

15 (1) THE ADDITION OF 53 PA.C.S. §§ 102 AND 305 SHALL TAKE  
16 EFFECT IN 60 DAYS.

17 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
18 IMMEDIATELY.