
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1438 Session of
2012

INTRODUCED BY ALLOWAY, ROBBINS, KASUNIC, RAFFERTY, ORIE, WAUGH,
D. WHITE, BRUBAKER, PICCOLA, YAW, WARD, FOLMER, SOLOBAY,
SCARNATI, BROWNE, MENSCH, WOZNIAK, BREWSTER AND BOSCOLA,
MARCH 16, 2012

REFERRED TO JUDICIARY, MARCH 16, 2012

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 53 (Municipalities
2 Generally) of the Pennsylvania Consolidated Statutes, further
3 providing for limitation on the regulation of firearms and
4 ammunition and for limitation on municipal powers; and
5 providing for applicability.

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

8 Section 1. Section 6120 of Title 18 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 6120. Limitation on the regulation of firearms and
11 ammunition.

12 (a) General rule.--[No county, municipality or township]
13 Except as otherwise provided in this section or a statute, no
14 political subdivision may in any manner regulate [the lawful
15 ownership, possession, transfer or transportation of] firearms,
16 firearm accessories, ammunition or ammunition components [when
17 carried or transported for purposes not prohibited by the laws
18 of this Commonwealth] or an activity or matter pertaining

1 thereto.

2 (a.1) No right of action.--

3 (1) No political subdivision may bring or maintain an
4 action at law or in equity against any firearms or ammunition
5 manufacturer, trade association or dealer for damages,
6 abatement, injunctive relief or any other relief or remedy
7 resulting from or relating to either the lawful design or
8 manufacture of firearms or ammunition or the lawful marketing
9 or sale of firearms or ammunition to the public.

10 (2) Nothing in this subsection shall be construed to
11 prohibit a political subdivision from bringing or maintaining
12 an action against a firearms or ammunition manufacturer or
13 dealer for breach of contract or warranty as to firearms or
14 ammunition purchased by the political subdivision.

15 (a.2) Remedies for unlawful regulation.--

16 (1) A person adversely affected by an ordinance,
17 resolution, rule or practice promulgated or enforced in
18 violation of subsection (a) or 53 Pa.C.S. § 2962(g) (relating
19 to limitation on municipal powers) may file suit in an
20 appropriate court for declarative and injunctive relief and
21 for damages attributable to the violation, including
22 consequential damages.

23 (2) Notwithstanding any other provision of law, a party
24 who brings or maintains an action at law or in equity against
25 a political subdivision regulating the otherwise lawful
26 ownership, possession, storage, carrying, transfer or
27 transportation of firearms, firearm accessories, ammunition
28 or ammunition components in violation of subsection (a) or 53
29 Pa.C.S. § 2962(g) is entitled to:

30 (i) Reimbursement of damages and reasonable attorney

1 fees and costs incurred if, within 30 days of
2 commencement of the action, but prior to a final
3 determination by a court in favor of either party, the
4 political subdivision rescinds or repeals the ordinance,
5 resolution, rule or practice at issue in the action.

6 (ii) Prejudgment liquidated damages if, after the
7 expiration of the 30-day period in paragraph (1) but
8 prior to a final determination by a court in favor of
9 either party, the political subdivision rescinds or
10 repeals the ordinance, resolution, rule or practice at
11 issue in the action.

12 (iii) Postjudgment liquidated damages upon a final
13 determination by a court in favor of the party who brings
14 or maintains the action.

15 (a.3) Exceptions.--This section may not be construed to
16 prevent the following:

17 (1) A duly organized law enforcement agency of a
18 political subdivision from enacting and enforcing rules
19 pertaining to firearms, firearm accessories, ammunition or
20 ammunition components issued to or used by peace officers in
21 the course of their official duties.

22 (2) An employer from regulating or prohibiting an
23 employee's carrying or possession of firearms, firearm
24 accessories, ammunition or ammunition components during and
25 in the course of the employee's official duties, provided
26 that an employee shall not be prohibited from transporting or
27 storing firearms out of sight in the employee's own locked or
28 attended vehicle in any manner not prohibited by the laws of
29 this Commonwealth.

30 (3) The enforcement, by an official of a political

1 subdivision with appropriate authority and jurisdiction, of
2 regulations or prohibitions pertaining to firearms, firearm
3 accessories, ammunition or ammunition components that are
4 enacted by the General Assembly or specifically authorized by
5 a statute.

6 (4) A court or administrative law judge from hearing and
7 resolving a case or controversy or issuing an opinion or
8 order on a matter within its jurisdiction.

9 (5) The enactment or enforcement of a generally
10 applicable zoning or business ordinance that includes
11 firearms businesses along with other businesses, provided
12 that an ordinance designed or enforced to effectively
13 restrict or prohibit the sale, purchase, transfer,
14 manufacture or display of firearms, firearm accessories,
15 ammunition or ammunition components that is otherwise lawful
16 under the laws of this Commonwealth is in conflict with this
17 section and is void.

18 (6) A political subdivision from enacting or enforcing
19 rules of operation and use for a shooting range owned or
20 operated by the political subdivision.

21 (7) A political subdivision from enacting or enforcing
22 ordinances pertaining to the reckless or negligent discharge
23 of a firearm.

24 (8) A political subdivision that sponsors or conducts a
25 firearm-related competition or educational or cultural
26 program from enacting and enforcing rules for participation
27 in or attendance at the program.

28 (b) Definitions.--As used in this section, the following
29 words and phrases shall have the meanings given to them in this
30 subsection:

1 "Ammunition or ammunition components." Fixed cartridge
2 ammunition, shotgun shells, an individual component of fixed
3 cartridge ammunition or shotgun shells, a projectile for
4 muzzleloading a firearm or a propellant used in a firearm or
5 ammunition.

6 "Dealer." The term shall include any person engaged in the
7 business of selling at wholesale or retail a firearm or
8 ammunition.

9 "Firearm accessories." A device specifically adapted to
10 enable the wearing or carrying on a person, or the storage or
11 mounting in or on a conveyance, of a firearm, or an attachment
12 or device specifically adapted to be inserted into or affixed
13 onto a firearm to enable, alter or improve the functioning or
14 capabilities of the firearm.

15 "Firearms." This term shall have the meaning given to it in
16 section 5515 (relating to prohibiting of paramilitary training)
17 but shall not include air rifles as that term is defined in
18 section 6304 (relating to sale and use of air rifles).

19 "Person adversely affected." In addition to a person who
20 otherwise has standing under the laws of this Commonwealth to
21 bring an action under this section, a person who:

22 (1) may legally possess a firearm under the laws of this
23 Commonwealth and the United States;

24 (2) owns, possesses, stores, transports, carries or
25 transfers firearms, ammunition or ammunition components
26 within the political subdivision in question or would do so
27 but for the ordinance, resolution, rule or practice at issue;

28 (3) is, or if present in the political subdivision in
29 question would be, subject to the ordinance, resolution, rule
30 or practice at issue, whether or not an enforcement action

1 has been initiated or threatened against the person; or
2 (4) a membership organization the members of which
3 include a person described in paragraphs (1), (2) and (3) and
4 that is dedicated in whole or in part to protecting the
5 legal, civil or constitutional rights of its membership.

6 "Political subdivision." The term shall include any home
7 rule charter municipality, county, city, borough, incorporated
8 town, township or school district.

9 "Postjudgment liquidated damages." A sum equal to three
10 times the damages, reasonable attorney fees and costs incurred
11 by a party who successfully brings or maintains an action
12 described under subsection (a.2).

13 "Prejudgment liquidated damages." A sum equal to two times
14 the damages, reasonable attorney fees and costs incurred by a
15 party who brings or maintains an action under subsection (a.2).

16 Section 2. Section 2962(g) of Title 53 is amended to read:
17 § 2962. Limitation on municipal powers.

18 * * *

19 (g) Regulation of firearms.--[A] Except as provided in 18
20 Pa.C.S § 6120(a.3) (relating to limitation on the regulation of
21 firearms and ammunition), a municipality shall not enact any
22 ordinance or take any other action dealing with the regulation
23 of [the transfer, ownership, transportation or possession of]
24 firearms, firearm accessories, ammunition or ammunition
25 components, as defined in 18 Pa.C.S § 6120(b), or any activity
26 or matter pertaining thereto.

27 * * *

28 Section 3. This act shall apply to an ordinance, rule,
29 resolution or policy adopted by a political subdivision, as
30 defined by 18 Pa.C.S. § 6120(b), or to an official action taken

1 by an employee or agent of the political subdivision, prior to,
2 on or after the effective date of this act.

3 Section 4. This act shall take effect as follows:

4 (1) The addition of 18 Pa.C.S. § 6120(a.2) shall take
5 effect in 90 days.

6 (2) This section shall take effect immediately.

7 (3) The remainder of this act shall take effect in 60
8 days.