

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 448 Session of 2021

INTRODUCED BY LANGERHOLC, BARTOLOTTA, MARTIN, DiSANTO, PITTMAN, K. WARD, J. WARD, PHILLIPS-HILL, MENSCH, YAW, SCAVELLO, GORDNER, HUTCHINSON, ARGALL, STEFANO, MASTRIANO, ROBINSON, REGAN, BREWSTER, AUMENT, VOGEL AND CORMAN, MARCH 18, 2021

SENATOR DUSH, LOCAL GOVERNMENT, AS AMENDED, OCTOBER 19, 2021

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 53 (Municipalities
2 Generally) of the Pennsylvania Consolidated Statutes, in
3 firearms and other dangerous articles, further providing for
4 limitation on the regulation of firearms and ammunition; and,
5 in preemptions, providing for regulation of firearms and
6 ammunition.

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

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

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

13 (a) General rule.--No county, municipality or township may
14 in any manner regulate the lawful ownership, possession,
15 transfer or transportation of firearms, ammunition or ammunition
16 components when carried or transported for purposes not
17 prohibited by the laws of this Commonwealth.

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

19 (1) No political subdivision may bring or maintain an

1 action at law or in equity against any firearms or ammunition
2 manufacturer, trade association or dealer for damages,
3 abatement, injunctive relief or any other relief or remedy
4 resulting from or relating to either the lawful design or
5 manufacture of firearms or ammunition or the lawful marketing
6 or sale of firearms or ammunition to the public.

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

12 (a.4) Relief.--The following shall apply:

13 (1) A person adversely affected by any manner of
14 ordinance, resolution, rule, practice or other action
15 promulgated or enforced by a county, municipality or township
16 in violation of subsection (a) or 53 Pa.C.S. § ~~306(a)~~ 307(A) <--
17 (relating to regulation of firearms and ammunition) or
18 2962(g) (relating to limitation on municipal powers), may
19 seek declarative and injunctive relief and the actual damages
20 attributable to the violation in an appropriate court.

21 (2) If a person adversely affected under paragraph (1)
22 is a plaintiff who provided 60 days' prior written notice of
23 the person's intention to file a claim under this subsection
24 to the defendant, the court shall award reasonable expenses
25 to the person adversely affected if the claim under paragraph
26 (1) results in:

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

29 (ii) rescission or repeal of the challenged manner
30 of regulation or enforcement after suit has been filed

1 under paragraph (1) but prior to a final determination by
2 a court.

3 (3) If a person is a defendant in a proceeding asserting
4 a defense under subsection (a) or 53 Pa.C.S. § ~~306(a)~~ 307(A) <--
5 or 2962(g), the court shall award reasonable expenses payable
6 by the county, municipality or township to the person if the
7 defense results in the withdrawal or dismissal of the
8 proceeding, an entry of nolle prosequi or an acquittal on the
9 basis of the defense.

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

13 "Dealer." The term shall include any person engaged in the
14 business of selling at wholesale or retail a firearm or
15 ammunition.

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

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

21 (1) A person who has standing under the laws of this
22 Commonwealth to bring a claim under subsection (a.4)(1).

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

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

28 "Political subdivision." The term shall include any home
29 rule charter municipality, county, city, borough, incorporated
30 town, township or school district.

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

4 Section 2. Title 53 is amended by adding a section to read:
5 § ~~306~~ 307. Regulation of firearms and ammunition. <--

6 (a) Preemption.--The General Assembly has always intended
7 and continues to intend to occupy the entire field of regulation
8 of firearms, ammunition, magazines, accessories, firearms
9 components and ammunition components in this Commonwealth,
10 including the purchase, sale, transfer, taxation, manufacture,
11 ownership, possession, use, discharge, transportation and
12 reporting of loss or theft of firearms, ammunition, firearms
13 components and ammunition components in this Commonwealth, to
14 the exclusion of any existing or future ordinance, resolution,
15 regulation, rule, practice or other action adopted by a
16 municipality. The Commonwealth, by this section, preempts and
17 supersedes any manner of ordinance, resolution, regulation,
18 rule, practice or other action promulgated or enforced by a
19 municipality of firearms, ammunition, firearms components or
20 ammunition components in this Commonwealth, and any such action
21 is declared null and void.

22 (b) Continuing effect.--The provisions of section 2962(g)
23 (relating to limitation on municipal powers) and 18 Pa.C.S. §
24 6120(a) (relating to limitation on the regulation of firearms
25 and ammunition) shall continue to preempt and supersede a local
26 ordinance, resolution, regulation, rule, practice or other
27 action insofar as the local ordinance, resolution, regulation,
28 rule, practice or other action is inconsistent with the
29 provisions of section 2962(g) or 18 Pa.C.S. § 6120(a).

30 Section 3. Within 30 days of the effective date of this

1 section, the Attorney General of this Commonwealth shall notify
2 in writing all municipalities of the provisions of 53 Pa.C.S. §
3 ~~306~~ 307 and amendments to 18 Pa.C.S. § 6120. <--

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

5 (1) The following shall take effect in 90 days:

6 (i) The addition of 53 Pa.C.S. § ~~306~~ 307. <--

7 (ii) The amendment of 18 Pa.C.S. § 6120.

8 (2) The remainder of this act shall take effect
9 immediately.