

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1066 Session of 2019

INTRODUCED BY M. K. KELLER, METCALFE, BARRAR, BERNSTINE, CAUSER, COX, DIAMOND, DOWLING, DUNBAR, ECKER, EMRICK, EVERETT, FEE, FRITZ, GABLER, GLEIM, GOODMAN, GROVE, HERSHEY, HICKERNELL, IRVIN, JAMES, JONES, JOZWIAK, KAUFFMAN, KEEFER, F. KELLER, KLUNK, KORTZ, MACKENZIE, MALONEY, MARSHALL, MASSER, MILLARD, B. MILLER, MOUL, NELSON, NESBIT, OBERLANDER, PEIFER, PICKETT, PYLE, RADER, RAPP, READSHAW, ROAE, ROTHMAN, SAYLOR, SCHEMEL, SONNEY, TOPPER, WARNER, WENTLING, WHEELAND, ZIMMERMAN, SCHMITT, DELOZIER, GREINER, DUSH, SNYDER, STAATS, WALSH, PETRARCA, HELM, COOK, REESE, ORTITAY, BOROWICZ, RIGBY, BURNS, KAIL, GREGORY, GILLEN, O'NEAL, RYAN, SIMMONS, DAY AND SCHLEGEL CULVER, APRIL 5, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2019

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, amended November 6, 2014 (P.L.2921,
11 No.192), amendment declared unconstitutional, 141 A.3d 426 (Pa
12 2016), is amended to read:

13 § 6120. Limitation on the regulation of firearms and
14 ammunition.

1 (a) General rule.--No county, municipality or township may
2 in any manner regulate the lawful ownership, possession,
3 transfer or transportation of firearms, ammunition or ammunition
4 components when carried or transported for purposes not
5 prohibited by the laws of this Commonwealth.

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

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

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

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

20 (1) A person adversely affected by any manner of
21 ordinance, resolution, rule, practice or other action
22 promulgated or enforced by a municipality COUNTY, <--
23 MUNICIPALITY OR TOWNSHIP in violation of subsection (a) or 53
24 Pa.C.S. § 306(a) (relating to regulation of firearms and
25 ammunition) or 2962(g) (relating to limitation on municipal
26 powers), may seek declarative and injunctive relief and the
27 actual damages attributable to the violation in an
28 appropriate court.

29 (2) If a person adversely affected under paragraph (1)
30 is a defendant in a proceeding asserting a defense under <--

1 subsection (a) or 53 Pa.C.S. § 306(a) or 2962(g) or is a
2 plaintiff who provided 60 days' prior written notice of the
3 person's intention to file a claim under this subsection to
4 the defendant, the court shall award reasonable expenses to
5 the person adversely affected if the ~~defense or a claim under~~ <--
6 paragraph (1) results in:

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

9 (ii) rescission or repeal of the challenged manner
10 of regulation or enforcement after suit has been filed
11 under paragraph (1) but prior to a final determination by
12 a court.

13 (3) IF A PERSON IS A DEFENDANT IN A PROCEEDING ASSERTING <--
14 A DEFENSE UNDER SUBSECTION (A) OR 53 PA.C.S. § 306(A) OR
15 2962(G), THE COURT SHALL AWARD REASONABLE EXPENSES PAYABLE BY
16 THE COUNTY, MUNICIPALITY OR TOWNSHIP TO THE PERSON IF THE
17 DEFENSE RESULTS IN THE WITHDRAWAL OR DISMISSAL OF THE
18 PROCEEDING, AN ENTRY OF NOLLE PROSEQUI OR AN ACQUITTAL ON THE
19 BASIS OF THE DEFENSE.

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

23 "Dealer." The term shall include any person engaged in the
24 business of selling at wholesale or retail a firearm or
25 ammunition.

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

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

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

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

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

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

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

14 Section 2. Title 53 is amended by adding a section to read:
15 § 306. Regulation of firearms and ammunition.

16 (a) Preemption.--The General Assembly has always intended
17 and continues to intend to occupy the entire field of regulation
18 of firearms, ammunition, MAGAZINES, ACCESSORIES, firearms <--
19 components and ammunition components in this Commonwealth,
20 including the purchase, sale, transfer, taxation, manufacture,
21 ownership, possession, USE, DISCHARGE, transportation and <--
22 reporting of loss or theft of firearms, ammunition, firearms
23 components and ammunition components in this Commonwealth, to
24 the exclusion of any existing or future ordinance, resolution,
25 regulation, rule, practice or other action adopted by a
26 municipality. The Commonwealth, by this section, preempts and
27 supersedes any manner of ordinance, resolution, regulation,
28 rule, practice or other action promulgated or enforced by a
29 municipality of firearms, ammunition, firearms components or
30 ammunition components in this Commonwealth, and any such action

1 is declared null and void.

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

10 Section 3. Within 30 days of the effective date of this
11 section, the Attorney General of this Commonwealth shall notify
12 in writing all municipalities of the provisions of 53 Pa.C.S. §
13 306 and amendments to 18 Pa.C.S. § 6120.

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

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

16 (i) The addition of 53 Pa.C.S. § 306.

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

18 (2) The remainder of this act shall take effect

19 immediately.