
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 805 Session of
2013

INTRODUCED BY METCALFE, PYLE, BAKER, BLOOM, CAUSER, CLYMER, COX,
CUTLER, DUNBAR, EMRICK, EVERETT, GABLER, GIBBONS, GILLEN,
GODSHALL, GROVE, HAHN, C. HARRIS, HESS, KAUFFMAN, F. KELLER,
KNOWLES, KORTZ, KRIEGER, LAWRENCE, MALONEY, METZGAR, MILLARD,
MILLER, MILNE, MULLERY, MUSTIO, NEUMAN, OBERLANDER, READSHAW,
ROAE, SAYLOR, SIMMONS, STEVENSON, SWANGER, TALLMAN, SACCONI,
REESE AND CHRISTIANA, FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 25, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in firearms and other dangerous
3 articles, further providing for limitation on the regulation
4 of firearms and ammunition.

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

7 Section 1. Section 6120(b) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended and the section is amended by
9 adding a subsection to read:

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

12 * * *

13 (a.2) Unlawful regulation.--

14 (1) A person adversely affected by any ordinance,
15 resolution, rule or practice promulgated or enforced in
16 violation of subsection (a) or of 53 Pa.C.S. 2962(g)

1 (relating to limitation on municipal powers) may file suit in
2 an appropriate court for declarative and injunctive relief
3 and for all actual and consequential damages attributable to
4 the violation.

5 (2) Notwithstanding any other provision of law, a party
6 who brings or maintains an action at law or in equity against
7 a political subdivision that has regulated the otherwise
8 lawful ownership, possession, storage, carrying, transfer or
9 transportation of firearms, ammunition or ammunition
10 components in violation of subsection (a) or of 53 Pa.C.S. §
11 2962(g) shall be entitled to all of the following:

12 (i) Reimbursement of actual damages and reasonable
13 attorney fees and costs incurred if, within 30 days of
14 commencement of the action but prior to a final
15 determination by a court in favor of either party, the
16 political subdivision rescinds or repeals the ordinance,
17 resolution, rule or practice at issue in the action.

18 (ii) Prejudgment liquidated damages if, after the
19 expiration of the 30-day period under paragraph (1) but
20 prior to a final determination by a court in favor of
21 either party, the political subdivision rescinds or
22 repeals the ordinance, resolution, rule or practice at
23 issue in the action.

24 (iii) Postjudgment liquidated damages upon a final
25 determination by a court in favor of the party who brings
26 or maintains the action.

27 (3) If a court finds that the county, municipality or
28 township violated subsection (a) or 53 Pa.C.S. § 2962(g), the
29 court may impose a civil penalty on the county, municipality
30 or township of up to \$5,000.

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

4 "Ammunition or ammunition components." Fixed cartridge
5 ammunition, shotgun shells, the individual components of fixed
6 cartridge ammunition and shotgun shells, projectiles for
7 muzzleloading firearms and any propellant used in firearms or
8 ammunition.

9 "Dealer." The term shall include any person engaged in the
10 business of selling at wholesale or retail a firearm or
11 ammunition.

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

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

17 (1) Any person who otherwise has standing under the laws
18 of this Commonwealth to bring an action under this section.

19 (2) Any person who meets all of the following:

20 (i) Can legally possess a firearm under the laws of
21 this Commonwealth and the United States.

22 (ii) Owns, possesses, stores, transports, carries or
23 transfers firearms, ammunition or ammunition components
24 within a political subdivision or would do so but for the
25 ordinance, resolution, rule or practice in a political
26 subdivision.

27 (iii) Is or, if present in a political subdivision,
28 would be subject to the ordinance, resolution, rule or
29 practice in the political subdivision, whether or not
30 specific enforcement action has been initiated or

1 threatened against the person.

2 (3) A membership organization, the members of which
3 include a person described under this paragraph, that is
4 dedicated in whole or in part to protecting the legal, civil
5 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 actual damages, reasonable attorney fees and costs
11 incurred by a party who successfully brings or maintains an
12 action described under subsection (a.2) (2).

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

17 Section 2. The amendment or addition of 18 Pa.C.S. §
18 6120(a.2) and (b) shall apply to an ordinance, rule, resolution
19 or policy adopted by a political subdivision or to official
20 actions taken by an employee or agent of a political
21 subdivision, before, on or after the effective date of this
22 section.

23 Section 3. This act shall take effect immediately.