
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 624 Session of
2021

INTRODUCED BY MASTRIANO, DUSH, BARTOLOTTA, HUTCHINSON, PHILLIPS-
HILL, PITTMAN, SCAVELLO, STEFANO, J. WARD, K. WARD, YAW AND
GORDNER, MAY 3, 2021

REFERRED TO STATE GOVERNMENT, MAY 3, 2021

AN ACT

1 Providing that any Federal action which attempts to register,
2 restrict or ban a firearm or accessory, or to limit, inhibit
3 or regulate the ownership of magazines in this Commonwealth
4 shall be unenforceable in this Commonwealth; and imposing
5 penalties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Right to Bear
10 Arms Protection Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Federal action." Any of the following issued or enacted by
16 the Federal government:

- 17 (1) An executive order.
18 (2) An agency order.
19 (3) A statute.

- 1 (4) A law.
2 (5) A rule.
3 (6) A regulation.
4 (7) An arbitrary clarification or classification,
5 including any of the following:

6 (i) A classification of weapons based on attributes
7 which do not go to primary combustion function of the
8 firearm, such as natural unmodified rate of fire.

9 (ii) A classification designed to prohibit
10 possession for nonmechanically necessary attributes, such
11 as bayonet lugs, telescoping stocks, muzzle breaks or
12 other fixtures, pistol grips and pistol braces.

13 (iii) A clarification issued through executive or
14 legislative agencies designed to prohibit ownership or
15 possession of firearms based on attributes which are
16 nonmechanically necessary or in common use.

17 "Firearm accessory." An item used in conjunction with or
18 affixed to a firearm but which is not mechanically essential to
19 the basic functions of that firearm.

20 "Registry." A list generated by regulation, mandate, order
21 or statute which indicates the ownership, residence or storage
22 location of firearms purchased or otherwise legally owned or
23 stored within this Commonwealth.

24 "State actor." An official, agent or employee of the
25 Commonwealth or a political subdivision of the Commonwealth. The
26 term includes persons contracting with the Commonwealth.

27 Section 3. Findings and declarations.

28 The General Assembly finds and declares as follows:

29 (1) Article 1, section 21 of the Constitution of the
30 Commonwealth of Pennsylvania, in clear and unambiguous

1 language states that the "right of the citizens to bear arms
2 in defense of themselves and the State shall not be
3 questioned." Article 1, section 25 of the Constitution of the
4 Commonwealth of Pennsylvania also clearly and unambiguously
5 states that "to guard against the transgressions of high
6 powers which we have delegated, we declare that everything in
7 this article is excepted out of the general powers of
8 Government and shall forever remain inviolate," and further
9 finds that both of these are rights of "The People," which
10 are clearly laid out prior to any mention of the framework of
11 Government having been defined in the Constitution of the
12 Commonwealth of Pennsylvania.

13 (2) The right to keep and bear arms is a fundamental
14 right possessed by the individual necessary for defense of
15 self and preservation of liberty and shall not be infringed.

16 (3) It is the intent of the General Assembly to protect
17 State actors from being directed through Federal action to
18 violate their oath of defense and preservation of these
19 individual rights as enumerated in the Constitution of the
20 United States and Article 1, section 21 of the Constitution
21 of the Commonwealth of Pennsylvania of its residents' right
22 to bear arms in defense of themselves and the State.

23 (4) Pursuant to and in furtherance of the principles of
24 Federalism enshrined in the Constitution of the United
25 States, the Federal Government may not commandeer this
26 State's actors to participate in the enforcement or
27 facilitation of any Federal action or regulatory program.

28 (5) This right to be free from the commandeering hand of
29 the Federal Government has been most notably recognized by
30 the United States Supreme Court in *Printz v. United States*,

1 521 U.S. 898 (1997), when the Court held: "The Federal
2 Government may neither issue directives requiring the States
3 to address particular problems, nor command the States'
4 officers, or those of their political subdivisions, to
5 administer or enforce a federal regulatory program."

6 (6) The anti-commandeering principles recognized by the
7 Supreme Court in *Printz v. United States* are predicated upon
8 the advice of James Madison, who in Federalist #46 advised a
9 "refusal to co-operate with the officers of the Union" in
10 response to either unconstitutional Federal measures or
11 constitutional but unpopular Federal measures.

12 Section 4. Prohibitions.

13 (a) State actors.--A Federal action relating to a firearm,
14 magazine of a firearm, accessory and ammunition, intended to
15 restrict possession, transfer or use of a firearm, magazine of a
16 firearm, accessory and ammunition shall be unenforceable by a
17 State actor in this Commonwealth.

18 (b) Enforceability.--A Federal action created or taking
19 effect after December 31, 2020, shall be unenforceable within
20 this Commonwealth if the Federal action attempts to register,
21 restrict or ban the ownership or purchase of a firearm, magazine
22 of a firearm, firearm accessory or ammunition, or to reclassify
23 the firearm, accessory or magazine ex post facto where the
24 result is to prohibit or restrict continued ownership or common
25 use. An attempt by the Federal government to create within this
26 Commonwealth a registry regarding a firearm, component or
27 accessory, ammunition or magazine shall be prohibited.

28 (c) Duty, immunity and penalty.--

29 (1) An official, agent or employee of the Federal
30 Government, or a person who works for the Federal Government

1 in any capacity located within this Commonwealth, or a State
2 actor owes an individual duty to each resident of this
3 Commonwealth not to violate the resident's Federal Second
4 Amendment rights or any similarly situated or applicable
5 rights under the Constitution of the United States or the
6 Commonwealth of Pennsylvania. This duty is established for
7 the purpose of establishing a direct action for civil
8 liability if a State actor breaches this duty against a
9 Commonwealth resident.

10 (2) A State actor charged with or served with processes
11 relating to an act related to enforcing or aiding or abetting
12 an unconstitutional action under paragraph (1) forfeits any
13 civil protections of qualified immunity which their position
14 may bestow and consents jurisdiction necessary to adjudicate
15 action against them for civil violations their actions
16 contributed to in any degree. An action by a State actor
17 enforcing or aiding or abetting an unconstitutional action
18 under paragraph (1):

19 (i) Effectively and summarily waives all qualified
20 immunity which the State actor may have been entitled to
21 prior to taking the action.

22 (ii) Shall constitute prima facie evidence of a
23 civil rights and tort action of a nature which shall
24 afford the affected party a right to a private action
25 against the State actor, their employer dictating the
26 action and persons affiliated or aiding in the commission
27 of the action.

28 (iii) Shall constitute consent to litigation in the
29 forum most convenient to the plaintiff, subject to the
30 Pennsylvania Rules of Civil Procedure.

1 (3) A State actor enforcing or aiding or abetting an
2 unconstitutional action under paragraph (1) shall be subject
3 to the following:

4 (i) Damages, such as compensatory damages, general
5 damages and punitive damages.

6 (ii) Beginning on the date of a judicial
7 adjudication of a violation of this section:

8 (A) Termination of employment and any
9 entitlements, except for pension or health care
10 benefits related to retirement, bestowed by the
11 employment.

12 (B) A bar from State employment in any capacity
13 for a period of at least 10 years.

14 (iii) A bar from contracting with any State
15 department, agency or office having contracts with the
16 Commonwealth or acting as subcontractors for the
17 Commonwealth.

18 (4) No person may contract with the Commonwealth or
19 submit bids for consideration to a Commonwealth bid request
20 who hires, employs or subcontracts with anyone found liable
21 under this act. A person who violated this paragraph shall be
22 liable as an accessory.

23 (d) Enforcement.--The Attorney General or a district
24 attorney shall prosecute violations of this section. An affected
25 party may bring a private action for a violation of this
26 section, notwithstanding if the Attorney General or a district
27 attorney fails to prosecute.

28 (e) Grant funds and forfeitures.--

29 (1) A political subdivision of this Commonwealth may not
30 receive funds from the Commonwealth if the political

1 subdivision adopts a rule, order, ordinance or policy in
2 violation of this section. State grant funds for the
3 political subdivision shall be denied for the fiscal year
4 following the year in which a final judicial determination in
5 an action brought under this section is made that the
6 political subdivision has intentionally required actions
7 which violate this section.

8 (2) An agency, office, department or entity of the
9 Commonwealth or a political subdivision of the Commonwealth
10 may not accept Federal money or grants to support or advance
11 a restriction, such as a Federal legislation or directive,
12 that are in violation of this section. Federal money or
13 grants to support or advance a restriction that are deposited
14 with the Commonwealth shall be used for the improvement of
15 State Game Lands and shooting ranges owned and maintained by
16 the Commonwealth. To the extent that a political subdivision
17 has received Federal money or grants to support or advance a
18 restriction, the Federal money or grant must be remitted,
19 within 10 days of receipt, to the State Treasurer for deposit
20 in the General Fund and shall be used for the improvement of
21 State Game Lands and shooting ranges owned and maintained by
22 the Commonwealth. If the use of Federal money or grant is
23 restricted by Federal action, the Federal money or grant
24 must be returned to the appropriate Federal entity.

25 Section 5. Attorney General.

26 The Attorney General shall defend a resident of this
27 Commonwealth who is prosecuted by the Federal Government for a
28 violation of Federal law under section 4(a) that attempts to
29 register, restrict or ban the ownership or purchase of a
30 firearm, magazine of a firearm, firearm accessory, or ammunition

1 that is retained in this Commonwealth.

2 Section 6. Severability.

3 The provisions of this act are severable. If any provision of
4 this act is held invalid, the invalidity shall not affect other
5 provisions or applications of this act which can be given effect
6 without the invalid provision or application.

7 Section 7. Effective date.

8 This act shall take effect in 30 days.