
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 876 Session of
2013

INTRODUCED BY ALLOWAY, WAUGH, RAFFERTY, KASUNIC, SCARNATI,
ROBBINS, MENSCH, EICHELBERGER, FOLMER, GORDNER, SOLOBAY,
WHITE, VULAKOVICH, WARD, VOGEL AND BROWNE, APRIL 24, 2013

REFERRED TO JUDICIARY, APRIL 24, 2013

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in firearms and other dangerous articles, further
4 providing for definitions; and, in particular rights and
5 immunities, further providing for civil immunity for use of
6 force and providing for declarative and injunctive relief and
7 certain damages.

8 The General Assembly finds that:

9 (1) It is proper for law-abiding people to protect
10 themselves, their families and others from intruders and
11 attackers without fear of prosecution or civil action for
12 acting in defense of themselves and others.

13 (2) Section 21 of Article I of the Constitution of
14 Pennsylvania guarantees that the "right of the citizens to
15 bear arms in defense of themselves and the State shall not be
16 questioned."

17 (3) Commonwealth law currently limits regulation of
18 firearms, ammunition and ammunition components by political
19 subdivisions in order to further the right guaranteed by
20 section 21 of Article I of the Constitution of Pennsylvania.

1 (4) Unlawful regulation of firearms, ammunition and
2 ammunition components by political subdivisions and the
3 threat of citation, prosecution or other legal process posed
4 by such regulation interfere with this right.

5 (5) Such interference with the right guaranteed by
6 section 21 of Article I of the Constitution of Pennsylvania
7 unduly inhibits law-abiding people from protecting
8 themselves, their families and others from intruders and
9 attackers and from other legitimate uses of constitutionally
10 protected arms, including hunting and sporting activities.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 6102 of Title 18 of the Pennsylvania
14 Consolidated Statutes is amended by adding a definition to read:
15 § 6102. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this subchapter which are applicable to specific
18 provisions of this subchapter, the following words and phrases,
19 when used in this subchapter shall have, unless the context
20 clearly indicates otherwise, the meanings given to them in this
21 section:

22 "Ammunition components."

23 (1) The individual components of a fixed cartridge or
24 shotgun shell, including, but not limited to, casings,
25 primers and projectiles.

26 (2) A propellant used in ammunition.

27 (3) A projectile or propellant used in antique firearms
28 as defined in section 6118 (relating to antique firearms).

29 * * *

30 Section 2. Section 8340.2 of Title 42 is amended to read:

1 § 8340.2. Civil immunity for use of force or persons adversely
2 affected by unlawful regulation of firearms.

3 (a) General rule for use of force.--An actor who uses force:

4 (1) in self-protection as provided in 18 Pa.C.S. § 505
5 (relating to use of force in self-protection);

6 (2) in the protection of other persons as provided in 18
7 Pa.C.S. § 506 (relating to use of force for the protection of
8 other persons);

9 (3) for the protection of property as provided in 18
10 Pa.C.S. § 507 (relating to use of force for the protection of
11 property);

12 (4) in law enforcement as provided in 18 Pa.C.S. § 508
13 (relating to use of force in law enforcement); or

14 (5) consistent with the actor's special responsibility
15 for care, discipline or safety of others as provided in 18
16 Pa.C.S. § 509 (relating to use of force by persons with
17 special responsibility for care, discipline or safety of
18 others)

19 is justified in using such force and shall be immune from civil
20 liability for personal injuries sustained by a perpetrator which
21 were caused by the acts or omissions of the actor as a result of
22 the use of force.

23 (a.1) General rule for unlawful regulation of firearms.--A
24 person adversely affected by any manner of regulation
25 promulgated or enforced in violation of 18 Pa.C.S. § 6120(a)
26 (relating to limitation on the regulation of firearms and
27 ammunition) or 53 Pa.C.S. § 2962(g) (relating to limitation on
28 municipal powers) may seek declarative and injunctive relief and
29 the actual and consequential damages attributable to the
30 violation in an appropriate court.

1 (b) Attorney fees and costs.--

2 (1) If the actor who satisfies the requirements of
3 subsection (a) prevails in a civil action initiated by or on
4 behalf of a perpetrator against the actor, the court shall
5 award reasonable expenses to the actor. [Reasonable expenses
6 shall include, but not be limited to, attorney fees, expert
7 witness fees, court costs and compensation for loss of
8 income.]

9 (2) The court shall award reasonable expenses to a
10 person adversely affected if an action under subsection (a.1)
11 results in:

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

14 (ii) rescission or repeal of the challenged manner
15 of regulation or enforcement after suit has been filed
16 under subsection (a.1) but prior to a final determination
17 by a court.

18 (c) [Definition.--As used in this section, the term
19 "perpetrator" shall mean a person against whom an actor is
20 justified in using force as provided by 18 Pa.C.S. § 505, 506,
21 507, 508 or 509.] Definitions.--As used in this section, the
22 following words and phrases shall have the meanings given to
23 them in this subsection unless the context clearly indicates
24 otherwise:

25 "Perpetrator." A person against whom an actor is justified
26 in using force as provided by 18 Pa.C.S. § 505, 506, 507, 508 or
27 509.

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

29 (1) A person who has standing under the laws of this
30 Commonwealth to bring an action under subsection (a.1).

1 (2) A resident of this Commonwealth who may legally
2 possess a firearm under the laws of this Commonwealth and the
3 United States and either:

4 (i) is subject to any manner of regulation alleged
5 to be promulgated or enforced in violation of 18 Pa.C.S.
6 § 6120(a) or of 53 Pa.C.S. § 2962(g) whether or not
7 specific enforcement action has been initiated or
8 threatened against the person or another person; or

9 (ii) would be, if the person were present in the
10 political subdivision in question, subject to any manner
11 of regulation alleged to be promulgated or enforced in
12 violation of 18 Pa.C.S. § 6120(a) or of 53 Pa.C.S. §
13 2962(g) whether or not specific enforcement action has
14 been initiated or threatened against the person or
15 another person.

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

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

21 Section 3. This act shall take effect in 60 days.