

Floor Amendment to HB 307

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Legislative Findings. The general court finds that:

4 I. New Hampshire is not a home rule state.

5 II. If municipal ordinances and regulations regarding regulation of firearms; ammunition;  
6 ammunition components; knives; firearms components; firearms accessories; and firearms supplies  
7 differ from municipality to municipality it may place a citizen in danger of inadvertently violating  
8 the law.

9 III. We are a nation of laws and every person is subject to the law, including people who are  
10 lawmakers, law enforcement officials, and judges.

11 IV. Citizens have good reason to expect that elected officials will be held to the same  
12 standard as citizens and that our statutes shall be followed and penalties are reasonable for  
13 purposeful violations of the law.

14 2 Name of Act. This act shall be known as the New Hampshire Second Amendment state  
15 preemption act.

16 3 Firearms, Ammunition, and Knives; State Preemption. The subdivision heading preceding  
17 RSA 159:26 and RSA 159:26 is repealed and reenacted to read as follows:

18 New Hampshire Second Amendment State Preemption Act

19 159:26 Legislative Intent.

20 I. It is the intent of this subdivision to provide uniform firearms laws in the state; to declare  
21 all ordinances and regulations null and void which have been enacted by any jurisdictions other than  
22 state and federal jurisdictions, which regulate firearms; ammunition; ammunition components;  
23 knives; firearms components; firearms accessories; and firearms supplies; to prohibit the enactment  
24 of any future ordinances or regulations relating to firearms; ammunition; ammunition components;  
25 knives; firearms components; firearms accessories; and firearms supplies unless specifically  
26 authorized by this subdivision or general law; and to require local jurisdictions to enforce state  
27 firearms laws. Except as otherwise specifically provided by statute, no ordinance or regulation of a  
28 political subdivision, shall regulate the sale, purchase, ownership, possession, transportation,  
29 licensing, permitting, taxation, or other matter pertaining to firearms; ammunition; ammunition  
30 components; knives; firearms components; firearms accessories; and firearms supplies in this state.

31 II. It is further the intent of this subdivision to deter and prevent the violation of this  
32 subdivision and the violation of rights protected under the constitution and laws of this state related

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1 to firearms; ammunition; ammunition components; knives; firearms components; firearms  
2 accessories; and firearms supplies by the abuse of official authority that occurs when enactments are  
3 passed in violation of state law or under color of local or state authority.

4 159:27 State Preemption. Except as expressly provided by the state constitution or statute, the  
5 general court hereby declares that it is occupying the whole field of regulation of firearms;  
6 ammunition; ammunition components; knives; firearms components; firearms accessories; and  
7 firearms supplies, including the purchase, sale, transfer, taxation, manufacture, repair, modification,  
8 ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future  
9 county, city, town, or municipal ordinances or any administrative regulations or rules adopted by  
10 local or state government relating thereto. Any existing ordinances, rules, or regulations of any  
11 county, city, town, or municipality are, upon the effective date of this section, hereby declared null  
12 and void.

13 159:28 Prohibitions; Penalties.

14 I. No public entity shall, and no private entity leasing or operating in any manner on any  
15 property owned, whole or in part, by the state, a political subdivision of this state, committee, or  
16 other governmental unit thereof, shall regulate or attempt to regulate the sale or possession of  
17 firearms; ammunition; ammunition components; knives; firearms components; firearms accessories;  
18 and firearms supplies on any property owned, whole or in part, by the state, political subdivision,  
19 committee, or other governmental unit thereof, unless explicitly authorized by statute.

20 II. A superior court having jurisdiction over the defendant or defendants shall declare  
21 invalid and unenforceable any ordinance, regulation, or rule adopted by any person, county, agency,  
22 municipality, district, or other political subdivision, and any private entity leasing or operating in  
23 any manner on any property owned, whole or in part, by the state, a political subdivision of this  
24 state, committee, or other governmental unit thereof, that violates the provisions of this subdivision  
25 and shall issue a permanent injunction against the political subdivision or private entity, as  
26 applicable, that adopted such ordinance, regulation, or rule prohibiting it from enforcing such  
27 ordinance, regulation, or rule. It shall be no defense that in enacting the ordinance, regulation, or  
28 rule the county, city, town, or other local government entity, or private entity leasing or operating in  
29 any manner on any property owned, whole or in part, by the state, a political subdivision of this  
30 state, committee, or other governmental unit thereof, was acting in good faith or upon the advice of  
31 counsel.

32 III. Upon a good faith belief that a county, city, town, or other local government entity, or  
33 other public or private organization or entity has violated this section, any citizen of this state  
34 residing within the geographic boundaries within which the applicable county, city, town, or other  
35 local government entity, or other public or private organization or entity is located and believing  
36 themselves to be aggrieved by such actions shall give written notice by certified mail, return receipt  
37 requested, or by a nationally-recognized courier service, to the county, city, town, or other local

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1 government entity or public or private organization or entity that is believed to have violated this  
2 section of the citizen's reasonable belief of such a violation, and the county, city, town, or other local  
3 government entity or other public or private organization or entity shall, within 90 days of receiving  
4 such notice, rescind any such ordinance, regulation, rule or policy that violates this section. If after  
5 the expiration of such 90-day period, the county, city, town, or other local government entity or other  
6 public or private organization or entity that enacted any such ordinance, regulation, rule, or policy  
7 fails or refuses to rescind such ordinance, regulation, or rule, such citizen of this state claiming to be  
8 so aggrieved and who has given such notice may bring an action in the superior court for the county  
9 in which the applicable county, city, town, or other local government entity, or other public or private  
10 organization or entity is located to require the rescission of any such ordinance, regulation, rule, or  
11 policy and may be awarded reasonable attorneys' fees and costs of the person bringing the action,  
12 including such attorneys' fees and costs in all courts and on appeal. The aggrieved citizen of this  
13 state giving such notice shall be deemed to have standing to bring suit under this section.

14 IV. If the court determines that a violation was inadvertent or the result of simple  
15 negligence, the court shall assess a civil fine of \$500 against the county, city, town, or other local  
16 government entity or other public or private organization or entity that enacted any such ordinance,  
17 regulation, rule, or policy for the first violation, a civil fine of up to \$1,000 for a second violation, and  
18 a civil fine of up to \$2,500 for a third or subsequent violation. If the court determines that a  
19 violation was committed purposely or knowingly, or committed recklessly or as the result of gross  
20 negligence, the court shall assess a civil fine of up to \$5,000 against the county, city, town, or other  
21 local government entity or other public or private organization or entity that enacted any such  
22 ordinance, regulation, rule, or policy.

23 V. A purposeful or knowing violation of any provision of this section by a person acting in an  
24 official capacity for any entity enacting or causing to be enforced a local ordinance or administrative  
25 rule or regulation or policy prohibited under this section or otherwise under color of law shall be  
26 cause for termination of employment or contract or removal from office by the governor.

27 VI. Any citizen of this state residing within the geographic boundaries within which the  
28 applicable county, city, town, or other local government entity, or other public or private  
29 organization or entity aggrieved by any ordinance, regulation, measure, directive, rule, enactment,  
30 order, or policy enacted, adopted or enforced in violation of this section is located may, after giving  
31 notice as provided for in paragraph III and after expiration of the 90-day time period, file suit in the  
32 superior court of the county in which the applicable county, city, town, or other local government  
33 entity, or other public or private organization or entity is located against any entity that enacted any  
34 such ordinance, regulation, rule or policy for declaratory and injunctive relief and for damages  
35 caused by the violation. Upon such filing, the court shall schedule a hearing on the matter which  
36 shall be within 10 days, excluding Saturdays, Sundays, and legal holidays, from the date of filing.  
37 Any citizen of this state residing within the geographic boundaries within which the applicable

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1 county, city, town, or other local government entity, or other public or private organization or entity  
2 aggrieved by any ordinance, regulation, measure, directive, rule, enactment, order, or policy enacted,  
3 adopted or enforced in violation of this section, as well as any organization whose membership is  
4 aggrieved by any ordinance, regulation, measure, directive, rule, enactment, order, or policy enacted,  
5 adopted or enforced in violation of this section, shall be deemed to have standing to bring an action  
6 under this section. After a hearing on the merits, if the court finds in favor of the petitioner, the  
7 court shall:

8 (a) Issue an injunction against the person, or public or private organization or entity, or  
9 political subdivision from enacting or enforcing the ordinance, regulation, rule, or policy;

10 (b) Issue a declaratory judgment that the ordinance, regulation, rule, or policy is void  
11 and unenforceable;

12 (c) Award the prevailing petitioner in any such suit reasonable attorney's fees and costs,  
13 including a contingency fee multiplier if the petitioner was represented by counsel working on the  
14 basis of a contingent fee, including such attorneys' fees and costs in all tribunals and on appeal; and

15 (d) Award to the successful petitioner bringing the action liquidated damages in the  
16 amount of \$10,000 against the defendant county, agency, municipality, or other entity, as applicable.

17 159:29 Exceptions. This subdivision shall not:

18 I. Prohibit zoning ordinances that encompass firearms businesses along with other  
19 businesses, except that zoning ordinances that are designed for the purpose of restricting or  
20 prohibiting the sale, purchase, transfer, repair or manufacture of firearms or ammunition or  
21 ammunition components or knives or regulating the sale of firearms accessories as a method of  
22 regulating firearms or ammunition or ammunition components or knives are in conflict with this  
23 subdivision, are prohibited, and are hereby declared to be null and void.

24 II. Prohibit a duly organized law enforcement agency from enacting and enforcing  
25 regulations pertaining to firearms, ammunition, ammunition components, firearm accessories or  
26 knives issued to or used by peace officers in the course of their official duties.

27 III. Prohibit a court or administrative law judge from hearing and resolving any case or  
28 controversy or issuing any opinion or order on a matter within the jurisdiction of that court or judge.

29 IV. Limit the authority of the legislative body of any city or town pursuant to RSA 644:13.

30 V. Prohibit a school district or school administrative unit approved to operate by the New  
31 Hampshire department of education from regulating the possession, transportation, or other matter  
32 pertaining to firearms, ammunition, ammunition components, firearm accessories, or knives on  
33 property or in facilities owned, operated, controlled or being used by any such school district or  
34 school administrative unit.

35 159:30 Savings Provision. In the event that any of the terms or provisions of this act are  
36 declared invalid or unenforceable by any court of competent jurisdiction, the remaining terms and  
37 provisions that are not effected thereby shall remain in full force and effect.

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1        4 Effective Date. This act shall take effect upon its passage.