

HB 307 - AS AMENDED BY THE HOUSE

7Apr2021... 0411h

2021 SESSION

21-0553

04/05

HOUSE BILL **307**

AN ACT relative to the state preemption of the regulation of firearms and ammunition.

SPONSORS: Rep. Silber, Belk. 2; Rep. Yakubovich, Merr. 24; Rep. Comtois, Belk. 7; Rep. Gould, Hills. 7

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill provides state preemption of the regulation of firearms, ammunition, ammunition components, knives, and firearms components and accessories.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the state preemption of the regulation of firearms and ammunition.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Legislative Findings. The general court finds that:

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

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

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

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

12 2 Name of Act. This act shall be known as the New Hampshire Second Amendment state
13 preemption act.

14 3 Firearms, Ammunition, and Knives; State Preemption. The subdivision heading preceding
15 RSA 159:26 and RSA 159:26 are repealed and reenacted to read as follows:

New Hampshire Second Amendment State Preemption Act

16 159:26 Legislative Intent.

17
18 I. It is the intent of this subdivision to provide uniform firearms laws in the state; to declare
19 all ordinances and regulations null and void which have been enacted by any jurisdictions other than
20 state and federal jurisdictions, which regulate firearms; ammunition; ammunition components;
21 knives; firearms components; firearms accessories; and firearms supplies; to prohibit the enactment
22 of any future ordinances or regulations relating to firearms; ammunition; ammunition components;
23 knives; firearms components; firearms accessories; and firearms supplies unless specifically
24 authorized by this subdivision or general law; and to require local jurisdictions to enforce state
25 firearms laws. Except as otherwise specifically provided by statute, no ordinance or regulation of a
26 political subdivision, including, without limitation, any school district or school administrative unit,
27 shall regulate the sale, purchase, ownership, use, possession, transportation, licensing, permitting,
28 taxation, or other matter pertaining to firearms; ammunition; ammunition components; knives;
29 firearms components; firearms accessories; and firearms supplies in this state.

30 II. It is further the intent of this subdivision to deter and prevent the violation of this
31 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 or by any school district or school administrative unit.
11 Any existing ordinances, rules, or regulations of any county, city, town, municipality, school district
12 or school administrative unit are, upon the effective date of this section, hereby declared null and
13 void.

14 159:28 Prohibitions; Penalties.

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

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

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1 III. Upon a good faith belief that a county, city, town, or other local government entity, or
2 other public or private organization or entity has violated this section, any citizen of this state
3 residing within the geographic boundaries within which the applicable county, city, town, or other
4 local government entity, or other public or private organization or entity is located and believing
5 themselves to be aggrieved by such actions shall give written notice by certified mail, return receipt
6 requested, or by a nationally-recognized courier service, to the county, city, town, or other local
7 government entity or public or private organization or entity that is believed to have violated this
8 section of the citizen's reasonable belief of such a violation, and the county, city, town, or other local
9 government entity or other public or private organization or entity shall, within 90 days of receiving
10 such notice, rescind any such ordinance, regulation, rule or policy that violates this section. If after
11 the expiration of such 90-day period, the county, city, town, or other local government entity or other
12 public or private organization or entity that enacted any such ordinance, regulation, rule, or policy
13 fails or refuses to rescind such ordinance, regulation, or rule, such citizen of this state claiming to be
14 so aggrieved and who has given such notice may bring an action in the superior court for the county
15 in which the applicable county, city, town, or other local government entity, or other public or private
16 organization or entity is located to require the rescission of any such ordinance, regulation, rule, or
17 policy and may be awarded reasonable attorneys' fees and costs of the person bringing the action,
18 including such attorneys' fees and costs in all courts and on appeal. The aggrieved citizen of this
19 state giving such notice shall be deemed to have standing to bring suit under this section.

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

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

33 VI. Any citizen of this state residing within the geographic boundaries within which the
34 applicable county, city, town, or other local government entity, or other public or private
35 organization or entity aggrieved by any ordinance, regulation, measure, directive, rule, enactment,
36 order, or policy enacted, adopted or enforced in violation of this section is located may, after giving
37 notice as provided for in paragraph III and after expiration of the 90-day time period, file suit in the

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1 superior court of the county in which the applicable county, city, town, or other local government
2 entity, or other public or private organization or entity is located against any county, agency,
3 municipality, school district, school administrative unit, or other entity that enacted any such
4 ordinance, regulation, rule or policy for declaratory and injunctive relief and for damages caused by
5 the violation. Upon such filing, the court shall schedule a hearing on the matter which shall be
6 within 10 days, excluding Saturdays, Sundays, and legal holidays, from the date of filing. Any
7 citizen of this state residing within the geographic boundaries within which the applicable county,
8 city, town, or other local government entity, or other public or private organization or entity
9 aggrieved by any ordinance, regulation, measure, directive, rule, enactment, order, or policy enacted,
10 adopted or enforced in violation of this section, as well as any organization whose membership is
11 aggrieved by any ordinance, regulation, measure, directive, rule, enactment, order, or policy enacted,
12 adopted or enforced in violation of this section, shall be deemed to have standing to bring an action
13 under this section. After a hearing on the merits, if the court finds in favor of the petitioner, the
14 court shall:

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

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

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

22 (d) Award to the successful petitioner bringing the action liquidated damages in the
23 amount of \$10,000 against the defendant county, agency, municipality, school district, school
24 administrative unit, or other entity, as applicable.

25 159:29 Exceptions. This subdivision shall not prohibit:

26 I. Zoning ordinances that encompass firearms businesses along with other businesses,
27 except that zoning ordinances that are designed for the purpose of restricting or prohibiting the sale,
28 purchase, transfer, repair or manufacture of firearms or ammunition or ammunition components or
29 knives or regulating the sale of firearms accessories as a method of regulating firearms or
30 ammunition or ammunition components or knives are in conflict with this subdivision, are
31 prohibited, and are hereby declared to be null and void.

32 II. A duly organized law enforcement agency from enacting and enforcing regulations
33 pertaining to firearms, ammunition, ammunition components, firearm accessories or knives issued
34 to or used by peace officers in the course of their official duties.

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

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1 159:30 Savings Provision. In the event that any of the terms or provisions of this act are
2 declared invalid or unenforceable by any court of competent jurisdiction, the remaining terms and
3 provisions that are not effected thereby shall remain in full force and effect.

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