

H. B. 2504

(By Delegates Marcum, Andes, Phillips, R., Nelson, J., Ferro, Ferns, White, Pethtel, Eldridge, Skaff and Phillips, L.)

[Introduced February 15, 2013; referred to the Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-7B-1 and §61-7B-2, all relating to firearms; providing that any federal law which attempts to ban a semi-automatic firearm or to limit the size of a magazine of a firearm or other limitation on firearms in this state shall be unenforceable in West Virginia; authorizing the Attorney General to defend West Virginia citizens prosecuted for violation of such a federal law; and providing a felony criminal penalty for persons who attempt to enforce such a federal law.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new article, designated §61-7B-1, §61-7B-2 and §61-7B-3, all to read as follows:

ARTICLE 7B. DEFENSE OF WEST VIRGINIA CITIZENS RIGHTS TO OWN AND POSSESS CERTAIN FIREARMS.

1 **§61-7B-1. Legislative intent.**

2 It is the intention of the Legislature in the enactment of
3 this article to clarify that any federal law which attempts to ban
4 a semi-automatic firearm or to limit the size of a magazine of a
5 firearm or other limitation on firearms in this state shall be
6 unenforceable in West Virginia in order to protect the rights of
7 sportsmen and sportswomen and further protect and preserve the
8 tenth amendment rights of the citizens of West Virginia under the
9 Constitution of the United States of America.

10 **§61-7B-2. Defense of West Virginia citizens; offense and**
11 **penalties.**

12 (a) No public officer or employee of the state, a county or
13 municipality or dealer selling any firearm in this state may
14 enforce or attempt to enforce any act, law, statute, rule or
15 regulation of the United States government relating to a personal
16 firearm, firearm accessory or ammunition that is owned or
17 manufactured commercially or privately in West Virginia and that
18 remains exclusively within the borders of West Virginia.

19 (b) Any official, agent or employee of the United States
20 government who enforces or attempts to enforce any act, order, law,
21 statute, rule or regulation of the United States government upon a
22 personal firearm, a firearm accessory or ammunition that is owned
23 or manufactured commercially or privately in West Virginia and that
24 remains exclusively within the borders of West Virginia is guilty

1 of a felony and, upon conviction thereof, shall be fined not more
2 than \$5,000 or imprisoned in a state correctional facility not less
3 than one nor more than five years, or both fined and imprisoned.

4 (c) The Attorney General may defend a citizen of West Virginia
5 who is prosecuted by the United States government for violation of
6 a federal law relating to the manufacture, sale, transfer or
7 possession of a firearm, a firearm accessory or ammunition owned or
8 manufactured and retained exclusively within the borders of West
9 Virginia.

10 (d) Any federal law, rule, regulation or order created or
11 effective on or after January 1, 2013 shall be unenforceable within
12 the borders of West Virginia if the law, rule, regulation or order
13 attempts to:

14 (1) Ban or restrict ownership of a semi-automatic firearm or
15 any magazine of a firearm; or

16 (2) Require any firearm, magazine or other firearm accessory
17 to be registered in any manner.

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NOTE: The purpose of this bill is to provide that any federal law which attempts to ban a semi-automatic firearm or to limit the size of a magazine of a firearm or other limitation on firearms in this state shall be unenforceable in West Virginia. The bill also authorizes the Attorney General to defend West Virginia citizens prosecuted for violation of such a federal law; provides a felony criminal penalty for persons who attempt to enforce such a federal

law; and, provides for an effective date upon passage.

This article is new; therefore, it has been completely underscored.