



1 State Legislature complete control over regulation and policy  
2 pertaining to firearms, ammunition and firearm accessories in order  
3 to ensure that the regulation and policy is applied uniformly  
4 throughout this state to each person subject to the state's  
5 jurisdiction and to ensure protection of the right to keep and bear  
6 arms recognized by the Constitutions of the United States and of  
7 this State.

8 (b) As used in this section:

9 (1) "Ammunition" means fixed cartridge ammunition, shotgun  
10 shells, the individual components of fixed cartridge ammunition and  
11 shotgun shells, projectiles for muzzle-loading firearms and any  
12 propellant used in firearms or ammunition.

13 (2) "Expressly authorized by a statute of this state" means  
14 the power to regulate firearms, ammunition or firearm accessories  
15 is authorized by a duly-enacted state statute that specifically  
16 mentions firearms, a particular type of firearm, ammunition or a  
17 particular type of ammunition.

18 (3) "Firearm accessory" means a device specifically designed  
19 or adapted to enable the wearing or carrying about one's person or  
20 the storage or mounting in or on a conveyance, of a firearm or an  
21 attachment or device specifically designed or adapted to be  
22 inserted into or affixed onto a firearm to enable, alter or improve  
23 the functioning or capabilities of the firearm.

24 (4) "Firearm" means any weapon which will expel a projectile

1 by action of an explosion.

2 (5) "Person adversely affected" means any of the following:

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

5 (i) Is subject to any manner of rule or regulation alleged to  
6 be promulgated or enforced in violation of this section, whether or  
7 not specific enforcement action has been initiated or threatened  
8 against that person or another person; or

9 (ii) Would be, if the person were present in the political  
10 subdivision in question, subject to any manner of regulation  
11 alleged to be promulgated or enforced in violation of this section,  
12 whether or not specific enforcement action has been initiated or  
13 threatened against that person or another person.

14 (B) A person who otherwise has standing under the laws of this  
15 state to bring an action under subsection (f) of this section.

16 (C) A membership organization the members of which include a  
17 person described in subparagraphs (A) or (B) of this subdivision  
18 and that is dedicated, in whole or in part, to protecting the  
19 legal, civil or constitutional rights of its membership.

20 (5) "Political subdivision" has the same meaning as in section  
21 ten-a, article three of chapter five-a of this code.

22 (6) "Reasonable expenses" include, but are not limited to,  
23 attorney fees, expert witness fees, court costs and compensation  
24 for loss of income.

1       (c) Except as otherwise provided in this section or as  
2 expressly authorized by a statute of this state, the State  
3 Legislature hereby occupies and preempts the entire field of  
4 regulation in this state touching in any way upon firearms,  
5 ammunition and firearm accessories to the complete exclusion of any  
6 order, ordinance or rule promulgated or enforced by any political  
7 subdivision of this state.

8       (d) The authority of a political subdivision to regulate  
9 firearms, ammunition or firearm accessories may not be inferred  
10 from its proprietary authority, home rule status or any other  
11 inherent or general power.

12       (e) Any existing or future orders, ordinances or rules  
13 promulgated or enforced in violation of this section are null and  
14 void.

15       (f) (1) A person adversely affected by any order, ordinance or  
16 rule promulgated or enforced in violation of this section may file  
17 suit in an appropriate court for declarative and injunctive relief  
18 and for all actual and consequential damages attributable to the  
19 violation.

20       (2) The court shall award reasonable expenses to a person  
21 adversely affected if an action under this subsection results in  
22 either:

23       (A) A final determination in favor of the person adversely  
24 affected; or

1       (B) Rescission, repeal or amendment of the challenged manner  
2 of regulation or enforcement after suit has been filed under  
3 subdivision (1) but prior to a final determination by the court.

4       (g) This section may not be construed to prevent any of the  
5 following:

6       (1) A duly organized law-enforcement agency of a political  
7 subdivision from promulgating and enforcing rules pertaining to  
8 firearms, ammunition or firearm accessories that it issues to or  
9 that are used by the political subdivision's peace officers in the  
10 course of their official duties;

11       (2) An employer from regulating or prohibiting an employee's  
12 carrying or possession of firearms, firearm accessories or  
13 ammunition during and in the course of the employee's official  
14 duties;

15       (3) A court or administrative law judge from hearing and  
16 resolving a case or controversy or issuing an opinion or order on  
17 a matter within its jurisdiction;

18       (4) The enactment or enforcement of a generally applicable  
19 zoning or business ordinance that includes firearms businesses  
20 along with other businesses, provided that an ordinance designed or  
21 enforced effectively to restrict or prohibit the sale, purchase,  
22 transfer, manufacture or display of firearms, ammunition or firearm  
23 accessories that is otherwise lawful under the laws of this state  
24 is in conflict with this section and is void;

1       (5) A political subdivision from enacting and enforcing rules  
2 of operation and use for any firearm range owned or operated by the  
3 political subdivision;

4       (6) A political subdivision from sponsoring or conducting any  
5 firearm-related competition or educational or cultural program and  
6 from enacting and enforcing rules for participation in or  
7 attendance at the program, provided that nothing in this section  
8 authorizes or permits a political subdivision to offer remuneration  
9 for the surrender or transfer of a privately-owned firearm to the  
10 political subdivision or another party as a method of reducing the  
11 number of privately-owned firearms within the political  
12 subdivision;

13       (7) Any official of a political subdivision with appropriate  
14 authority and jurisdiction from enforcing any statute enacted by  
15 the State Legislature;

16       (8) A political subdivision from leasing public property to  
17 another person or entity for a firearm-related event on terms  
18 agreeable to both parties.

19                   **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

20                   **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

21                   **§7-1-3. Jurisdiction, powers and duties.**

22           The county commissions, through their clerks, shall have the  
23 custody of all deeds and other papers presented for record in their  
24 counties and the same shall be preserved therein, or otherwise

1 disposed of as now is, or may be prescribed by law. They shall  
2 have jurisdiction in all matters of probate, the appointment and  
3 qualification of personal representatives, guardians, committees,  
4 curators and the settlement of their accounts and in all matters  
5 relating to apprentices. They shall also, under the rules as now  
6 are or may be prescribed by law, have the superintendence and  
7 administration of the internal police and fiscal affairs of their  
8 counties, including the establishment and regulation of roads,  
9 ways, streets, avenues, drives and the like, and the naming or  
10 renaming thereof, in cooperation with local postal authorities, the  
11 Division of Highways and the directors of county emergency  
12 communications centers, to assure uniform, nonduplicative  
13 conversion of all rural routes to city-type addressing on a  
14 permanent basis, bridges, public landings, ferries and mills, with  
15 authority to lay and disburse the county levies. They shall, in  
16 all cases of contest, judge of the election, qualification and  
17 returns of their own members, and of all county and district  
18 officers, subject to appeal as prescribed by law. The tribunals as  
19 have been heretofore established by the Legislature under and by  
20 virtue of section thirty-four, article VIII of the Constitution of  
21 1872, for police and fiscal purposes, shall, until otherwise  
22 provided by law, remain and continue as at present constituted in  
23 the counties in which they have been respectively established, and  
24 shall be and act as to police and fiscal matters in lieu of the

1 county commission herein mentioned, until otherwise provided by  
2 law. And until otherwise provided by law, the clerk as is  
3 mentioned in section twenty-six of said article, as amended, shall  
4 exercise any powers and discharge any duties heretofore conferred  
5 on, or required of, any court or tribunal established for judicial  
6 purposes under said section, or the clerk of the court or tribunal,  
7 respectively, respecting the recording and preservation of deeds  
8 and other papers presented for record, matters of probate, the  
9 appointment and qualification of personal representatives,  
10 guardians, committees, curators and the settlement of their  
11 accounts and in all matters relating to apprentices. ~~The county  
12 commission may not limit the right of any person to purchase,  
13 possess, transfer, own, carry, transport, sell or store any  
14 revolver, pistol, rifle or shotgun or any ammunition or ammunition  
15 components to be used therewith nor to so regulate the keeping of  
16 gunpowder so as to, directly or indirectly, prohibit the ownership  
17 of the ammunition: *Provided*, That no provision in this section may  
18 be construed to limit the authority of a county to restrict the  
19 commercial use of real estate in designated areas through planning  
20 or zoning ordinances.~~

21 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

22 **ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED**  
23 **RELATIONS OF MUNICIPALITIES, GOVERNING BODIES**

1                   **AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS**  
2                   **AGAINST MUNICIPALITIES.**

3 **§8-12-5. General powers of every municipality and the governing**  
4                   **body thereof.**

5           In addition to the powers and authority granted by: (i) The  
6 Constitution of this state; (ii) other provisions of this chapter;  
7 (iii) other general law; and (iv) any charter, and to the extent  
8 not inconsistent or in conflict with any of the foregoing except  
9 special legislative charters, every municipality and the governing  
10 body thereof shall have plenary power and authority therein by  
11 ordinance or resolution, as the case may require, and by  
12 appropriate action based thereon:

13           (1) To lay off, establish, construct, open, alter, curb,  
14 recurb, pave or repave and keep in good repair, or vacate,  
15 discontinue and close, streets, avenues, roads, alleys, ways,  
16 sidewalks, drains and gutters, for the use of the public, and to  
17 improve and light the same, and have them kept free from  
18 obstructions on or over them which have not been authorized  
19 pursuant to the succeeding provisions of this subdivision; and,  
20 subject to such terms and conditions as the governing body shall  
21 prescribe, to permit, without in any way limiting the power and  
22 authority granted by the provisions of article sixteen of this  
23 chapter, any person to construct and maintain a passageway,

1 building or other structure overhanging or crossing the airspace  
2 above a public street, avenue, road, alley, way, sidewalk or  
3 crosswalk, but before any permission for any person to construct  
4 and maintain a passageway, building or other structure overhanging  
5 or crossing any airspace is granted, a public hearing thereon shall  
6 be held by the governing body after publication of a notice of the  
7 date, time, place and purpose of the public hearing has been  
8 published as a Class I legal advertisement in compliance with the  
9 provisions of article three, chapter fifty-nine of this code and  
10 the publication area for the publication shall be the municipality:  
11 *Provided*, That any permit so granted shall automatically cease and  
12 terminate in the event of abandonment and nonuse thereof for the  
13 purposes intended for a period of ninety days, and all rights  
14 therein or thereto shall revert to the municipality for its use and  
15 benefit;

16 (2) To provide for the opening and excavation of streets,  
17 avenues, roads, alleys, ways, sidewalks, crosswalks and public  
18 places belonging to the municipality and regulate the conditions  
19 under which any such opening may be made;

20 (3) To prevent by proper penalties the throwing, depositing or  
21 permitting to remain on any street, avenue, road, alley, way,  
22 sidewalk, square or other public place any glass, scrap iron,  
23 nails, tacks, wire, other litter or any offensive matter or  
24 anything likely to injure the feet of individuals or animals or the

1 tires of vehicles;

2       (4) To regulate the use of streets, avenues, roads, alleys,  
3 ways, sidewalks, crosswalks and public places belonging to the  
4 municipality, including the naming or renaming thereof, and to  
5 consult with local postal authorities, the Division of Highways and  
6 the directors of county emergency communications centers to assure  
7 uniform, nonduplicative addressing on a permanent basis;

8       (5) To regulate the width of streets, avenues and roads, and,  
9 subject to the provisions of article eighteen of this chapter, to  
10 order the sidewalks, footways and crosswalks to be paved, repaved,  
11 curbed or recurbed and kept in good order, free and clean, by the  
12 owners or occupants thereof or of the real property next adjacent  
13 thereto;

14       (6) To establish, construct, alter, operate and maintain, or  
15 discontinue, bridges, tunnels and ferries and approaches thereto;

16       (7) To provide for the construction and maintenance of water  
17 drains, the drainage of swamps or marshlands and drainage systems;

18       (8) To provide for the construction, maintenance and covering  
19 over of watercourses;

20       (9) To control and administer the waterfront and waterways of  
21 the municipality and to acquire, establish, construct, operate and  
22 maintain and regulate flood control works, wharves and public  
23 landings, warehouses and all adjuncts and facilities for navigation  
24 and commerce and the utilization of the waterfront and waterways

1 and adjacent property;

2       (10) To prohibit the accumulation and require the disposal of  
3 garbage, refuse, debris, wastes, ashes, trash and other similar  
4 accumulations whether on private or public property: *Provided,*  
5 That, in the event the municipality annexes an area which has been  
6 receiving solid waste collection services from a certificated solid  
7 waste motor carrier, the municipality and the solid waste motor  
8 carrier may negotiate an agreement for continuation of the private  
9 solid waste motor carrier services for a period of time, not to  
10 exceed three years, during which time the certificated solid waste  
11 motor carrier may continue to provide exclusive solid waste  
12 collection services in the annexed territory;

13       (11) To construct, establish, acquire, equip, maintain and  
14 operate incinerator plants and equipment and all other facilities  
15 for the efficient removal and destruction of garbage, refuse,  
16 wastes, ashes, trash and other similar matters;

17       (12) To regulate or prohibit the purchase or sale of articles  
18 intended for human use or consumption which are unfit for use or  
19 consumption, or which may be contaminated or otherwise unsanitary;

20       (13) To prevent injury or annoyance to the public or  
21 individuals from anything dangerous, offensive or unwholesome;

22       (14) To regulate the keeping of gunpowder and other  
23 combustibles;

24       (15) To make regulations guarding against danger or damage by

1 fire;

2       (16) To arrest, convict and punish any individual for carrying  
3 about his or her person ~~any revolver or other pistol,~~ dirk, bowie  
4 knife, razor, slingshot, billy, metallic or other false knuckles or  
5 any other ~~dangerous or other~~ deadly weapon of like kind or  
6 character;

7       (17) To arrest, convict and punish any person for importing,  
8 printing, publishing, selling or distributing any pornographic  
9 publications;

10       (18) To arrest, convict and punish any person for keeping a  
11 house of ill fame, or for letting to another person any house or  
12 other building for the purpose of being used or kept as a house of  
13 ill fame, or for knowingly permitting any house owned by him or her  
14 or under his or her control to be kept or used as a house of ill  
15 fame, or for loafing, boarding or loitering in a house of ill fame,  
16 or frequenting same;

17       (19) To prevent and suppress conduct and practices which are  
18 immoral, disorderly, lewd, obscene and indecent;

19       (20) To prevent the illegal sale of intoxicating liquors,  
20 drinks, mixtures and preparations;

21       (21) To arrest, convict and punish any individual for driving  
22 or operating a motor vehicle while intoxicated or under the  
23 influence of liquor, drugs or narcotics;

24       (22) To arrest, convict and punish any person for gambling or

1 keeping any gaming tables, commonly called "A, B, C," or "E, O,"  
2 table or faro bank or keno table, or table of like kind, under any  
3 denomination, whether the gaming table be played with cards, dice  
4 or otherwise, or any person who shall be a partner or concerned in  
5 interest, in keeping or exhibiting the table or bank, or keeping or  
6 maintaining any gaming house or place, or betting or gambling for  
7 money or anything of value;

8       (23) To provide for the elimination of hazards to public  
9 health and safety and to abate or cause to be abated anything which  
10 in the opinion of a majority of the governing body is a public  
11 nuisance;

12       (24) To license, or for good cause to refuse to license in a  
13 particular case, or in its discretion to prohibit in all cases, the  
14 operation of pool and billiard rooms and the maintaining for hire  
15 of pool and billiard tables notwithstanding the general law as to  
16 state licenses for any such business and the provisions of section  
17 four, article thirteen of this chapter; and when the municipality,  
18 in the exercise of its discretion, refuses to grant a license to  
19 operate a pool or billiard room, mandamus may not lie to compel the  
20 municipality to grant the license unless it shall clearly appear  
21 that the refusal of the municipality to grant a license is  
22 discriminatory or arbitrary; and in the event that the municipality  
23 determines to license any business, the municipality has plenary  
24 power and authority and it shall be the duty of its governing body

1 to make and enforce reasonable ordinances regulating the licensing  
2 and operation of the businesses;

3 (25) To protect places of divine worship and to preserve peace  
4 and order in and about the premises where held;

5 (26) To regulate or prohibit the keeping of animals or fowls  
6 and to provide for the impounding, sale or destruction of animals  
7 or fowls kept contrary to law or found running at large;

8 (27) To arrest, convict and punish any person for cruelly,  
9 unnecessarily or needlessly beating, torturing, mutilating,  
10 killing, or overloading or overdriving or willfully depriving of  
11 necessary sustenance any domestic animal;

12 (28) To provide for the regular building of houses or other  
13 structures, for the making of division fences by the owners of  
14 adjacent premises and for the drainage of lots by proper drains and  
15 ditches;

16 (29) To provide for the protection and conservation of shade  
17 or ornamental trees, whether on public or private property, and for  
18 the removal of trees or limbs of trees in a dangerous condition;

19 (30) To prohibit with or without zoning the location of  
20 occupied house trailers or mobile homes in certain residential  
21 areas;

22 (31) To regulate the location and placing of signs,  
23 billboards, posters and similar advertising;

24 (32) To erect, establish, construct, acquire, improve,

1 maintain and operate a gas system, a waterworks system, an electric  
2 system or sewer system and sewage treatment and disposal system, or  
3 any combination of the foregoing (subject to all of the pertinent  
4 provisions of articles nineteen and twenty of this chapter and  
5 particularly to the limitations or qualifications on the right of  
6 eminent domain set forth in articles nineteen and twenty), within  
7 or without the corporate limits of the municipality, except that  
8 the municipality may not erect any system partly without the  
9 corporate limits of the municipality to serve persons already  
10 obtaining service from an existing system of the character proposed  
11 and where the system is by the municipality erected, or has  
12 heretofore been so erected, partly within and partly without the  
13 corporate limits of the municipality, the municipality has the  
14 right to lay and collect charges for service rendered to those  
15 served within and those served without the corporate limits of the  
16 municipality and to prevent injury to the system or the pollution  
17 of the water thereof and its maintenance in a healthful condition  
18 for public use within the corporate limits of the municipality;

19       (33) To acquire watersheds, water and riparian rights, plant  
20 sites, rights-of-way and any and all other property and  
21 appurtenances necessary, appropriate, useful, convenient or  
22 incidental to any system, waterworks or sewage treatment and  
23 disposal works, as aforesaid, subject to all of the pertinent  
24 provisions of articles nineteen and twenty of this chapter;

1           (34) To establish, construct, acquire, maintain and operate  
2 and regulate markets and prescribe the time of holding the same;

3           (35) To regulate and provide for the weighing of articles sold  
4 or for sale;

5           (36) To establish, construct, acquire, maintain and operate  
6 public buildings, municipal buildings or city halls, Auditoriums,  
7 arenas, jails, juvenile detention centers or homes, motor vehicle  
8 parking lots or any other public works;

9           (37) To establish, construct, acquire, provide, equip,  
10 maintain and operate recreational parks, playgrounds and other  
11 recreational facilities for public use and in this connection also  
12 to proceed in accordance with the provisions of article two,  
13 chapter ten of this code;

14           (38) To establish, construct, acquire, maintain and operate a  
15 public library or museum or both for public use;

16           (39) To provide for the appointment and financial support of  
17 a library board in accordance with the provisions of article one,  
18 chapter ten of this code;

19           (40) To establish and maintain a public health unit in  
20 accordance with the provisions of section two, article two, chapter  
21 sixteen of this code, which unit shall exercise its powers and  
22 perform its duties subject to the supervision and control of the  
23 West Virginia Board of Health and State Bureau for Public Health;

24           (41) To establish, construct, acquire, maintain and operate

1 hospitals, sanitarians and dispensaries;

2       (42) To acquire, by purchase, condemnation or otherwise, land  
3 within or near the corporate limits of the municipality for  
4 providing and maintaining proper places for the burial of the dead  
5 and to maintain and operate the same and regulate interments  
6 therein upon terms and conditions as to price and otherwise as may  
7 be determined by the governing body and, in order to carry into  
8 effect the authority, the governing body may acquire any cemetery  
9 or cemeteries already established;

10       (43) To exercise general police jurisdiction over any  
11 territory without the corporate limits owned by the municipality or  
12 over which it has a right-of-way;

13       (44) To protect and promote the public morals, safety, health,  
14 welfare and good order;

15       (45) To adopt rules for the transaction of business and the  
16 government and regulation of its governing body;

17       (46) Except as otherwise provided, to require and take bonds  
18 from any officers, when considered necessary, payable to the  
19 municipality, in its corporate name, with such sureties and in a  
20 penalty as the governing body may see fit, conditioned upon the  
21 faithful discharge of their duties;

22       (47) To require and take from the employees and contractors  
23 such bonds in a penalty, with such sureties and with such  
24 conditions, as the governing body may see fit;

1           (48) To investigate and inquire into all matters of concern to  
2 the municipality or its inhabitants;

3           (49) To establish, construct, require, maintain and operate  
4 such instrumentalities, other than free public schools, for the  
5 instruction, enlightenment, improvement, entertainment, recreation  
6 and welfare of the municipality's inhabitants as the governing body  
7 may consider necessary or appropriate for the public interest;

8           (50) To create, maintain and operate a system for the  
9 enumeration, identification and registration, or either, of the  
10 inhabitants of the municipality and visitors thereto, or the  
11 classes thereof as may be considered advisable;

12          (51) To require owners, residents or occupants of  
13 factory-built homes situated in a factory-built rental home  
14 community with at least ten factory-built homes, to visibly post  
15 the specific numeric portion of the address of each factory-built  
16 home on the immediate premises of the factory-built home of  
17 sufficient size to be visible from the adjoining street: *Provided,*  
18 That in the event no numeric or other specific designation of an  
19 address exists for a factory-built home subject to the  
20 authorization granted by this subdivision, the municipality has the  
21 authority to provide a numeric or other specific designation of an  
22 address for the factory-built home and require that it be posted in  
23 accordance with the authority otherwise granted by this section.

24          (52) To appropriate and expend not exceeding 25¢ per capita

1 per annum for advertising the municipality and the entertainment of  
2 visitors;

3 (53) To conduct programs to improve community relations and  
4 public relations generally and to expend municipal revenue for such  
5 purposes;

6 (54) To reimburse applicants for employment by the  
7 municipality for travel and other reasonable and necessary expenses  
8 actually incurred by the applicants in traveling to and from the  
9 municipality to be interviewed;

10 (55) To provide revenue for the municipality and appropriate  
11 the same to its expenses;

12 (56) To create and maintain an Employee Benefits Fund which  
13 may not exceed one tenth of one percent of the annual payroll  
14 budget for general employee benefits and which is set up for the  
15 purpose of stimulating and encouraging employees to develop and  
16 implement cost-saving ideas and programs and to expend moneys from  
17 the fund for these purposes;

18 (57) To enter into reciprocal agreements with governmental  
19 subdivisions or agencies of any state sharing a common border for  
20 the protection of people and property from fire and for emergency  
21 medical services and for the reciprocal use of equipment and  
22 personnel for these purposes;

23 (58) To provide penalties for the offenses and violations of  
24 law mentioned in this section, subject to the provisions of section

1 one, article eleven of this chapter, and such penalties may not  
2 exceed any penalties provided in this chapter and chapter sixty-one  
3 of this code for like offenses and violations; and

4       (59) To participate in a purchasing card program for local  
5 governments authorized and administered by the State Auditor as an  
6 alternative payment method.

NOTE: The purpose of this bill is to remove the authority of  
state political subdivisions to regulate sales and possession of  
firearms, ammunition and firearm accessories, to ensure the uniform  
regulation and protection of the right to keep and bear arms in the  
State of West Virginia.

Strike-throughs indicate language that would be stricken from  
the present law, and underscoring indicates new language that would  
be added.