

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 112

FISCAL
NOTE

By Senators Karnes, Taylor, Hunt, Martin, Azinger,
and Maynard

[Introduced January 11, 2023; referred to
the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §12-1-16, relating generally to financial institutions engaged in boycotts of
3 firearms companies; defining terms; authorizing the Treasurer to prepare, maintain, and
4 publish a list of financial institutions engaged in boycotts of firearms companies; requiring
5 the Treasurer to post the list on his or her website and submit the list to certain public
6 officials; setting forth sources of information on which the Treasurer may rely on preparing
7 the list; requiring the Treasurer to send written notice to a financial institution of its inclusion
8 on the list; requiring the Treasurer to remove a financial institution from the list if it presents
9 information demonstrating that it is not engaged in a boycott of firearms companies;
10 authorizing the Treasurer to exclude financial institutions on the list from the selection
11 process for state banking contracts; authorizing the Treasurer to refuse to enter into a
12 banking contract with a financial institution on the list; authorizing the Treasurer to require,
13 as a term of a banking contract, an agreement by the financial institution not to engage in a
14 boycott of firearms companies; and limiting liability of public officials, public employees,
15 members or employees of financial institutions for actions taken in compliance with the
16 new code section and exempting the Investment Management Board.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-16. Financial institutions engaged in boycotts of firearms, ammunition, or firearms accessories companies.

1 (a) Definitions. – For the purposes of this section:

2 (1) "Banking contract" means a contract entered into by the Treasurer and a financial
3 institution pursuant to this chapter, to provide banking goods, or services to a spending unit.

4 (2) "Boycott of firearms, ammunition, or firearms accessories companies" means without
5 an ordinary business purpose, refusal to deal with a company, termination of business activities
6 with a company, or another action that is intended to penalize, inflict economic harm on, or limit

7 commercial relations with a company because the company:

8 (A) Engages in the sale, wholesale, utilization, transportation, or manufacturing of
9 firearms, ammunition or firearm accessories;

10 (B) Engages in the sale, wholesale, utilization, transportation, or manufacturing of
11 firearms, ammunition, or firearm accessories and does not commit or pledge to meet
12 environmental standards beyond applicable federal and state law; or

13 (C) Does business with a company that engages in the sale, wholesale, utilization,
14 transportation, or manufacturing of firearms, ammunition or firearm accessories.

15 (3) "Company" means any sole proprietorship, organization, association, corporation,
16 partnership, joint venture, limited partnership, limited liability partnership, limited liability company,
17 or other entity or business association, including all wholly owned subsidiaries, majority-owned
18 subsidiaries, parent companies, or affiliates of those entities or business associations, that exist
19 for the purpose of making profit.

20 (4) "Financial institution" means a bank, national banking association, nonbank financial
21 institution, a bank and trust company, a trust company, a savings and loan association, a building
22 and loan association, a mutual savings bank, a credit union, or a savings bank.

23 (5) "Ordinary business purpose" includes any purpose directly related to promoting the
24 financial success or stability of a financial institution, the purpose of mitigating risk to a financial
25 institution, or the purpose of limiting liability of a financial institution.

26 (6) "Restricted financial institution" means a financial institution included in the most
27 recently updated restricted financial institution list.

28 (7) "Restricted financial institution list" means the list that the Treasurer is authorized to
29 prepare, maintain, and publish pursuant to subsection (b) of this section.

30 (8) "Treasurer" refers to the West Virginia State Treasurer.

31 (b) Restricted financial institutions list. –

32 (1) The Treasurer is authorized to prepare and maintain a list of financial institutions that

are engaged in a boycott of firearms, ammunition, or firearms accessories companies. A list prepared pursuant to this subsection shall be known and cited as the restricted financial institution list.

(2) In preparing the restricted financial institution list, the Treasurer may review and rely on publicly available information regarding financial institutions, including public statements by a company, information published or provided by nonprofit organizations, research firms, international organizations, and other state or federal governmental entities.

(3) Upon preparation of the restricted financial institution list, the Treasurer must comply with the following requirements:

(A) The Treasurer must publicly post the restricted financial institution list on the Treasurer's website and submit a copy of the list to the Governor, the President of the Senate, and the Speaker of the House of Delegates.

(B) The Treasurer must update the restricted financial institution list annually, or more often as the Treasurer considers necessary.

(C) For each newly identified restricted financial institution, the Treasurer must send a written notice informing the institution of its restricted financial institution status and that it may be ineligible to enter into, or remain in, banking contracts with the State of West Virginia. If, following the receipt of the written notice, the restricted financial institution provides information demonstrating, to the Treasurer's satisfaction, that it is not engaged in a boycott of firearms, ammunition or firearms accessories companies or that it has ceased all activity that boycotts firearms, ammunition, or firearms accessories companies, the Treasurer must remove the company from the restricted financial institution list.

(c) Treasurer authority with regard to restricted financial institutions. –

(1) In selecting a financial institution to enter into a banking contract, the Treasurer is authorized to disqualify restricted financial institutions from the competitive bidding process or from any other official selection process.

59 (2) The Treasurer is authorized to refuse to enter into a banking contract with a restricted
60 financial institution based on its restricted financial institution status.

61 (3) The Treasurer is authorized to require, as a term of any banking contract, an agreement
62 by the financial institution not to engage in a boycott of firearms, ammunition, or firearms
63 accessories companies for the duration of the contract.

64 (d) Limitation on liability. – With respect to actions taken in compliance with this section, a
65 public agency, public official, public employee, or member or employee of a financial institution is
66 immune from liability.

67 (e) Applicability to the West Virginia Investment Management Board. – The provisions of
68 this section do not apply to the duties, actions, and transaction of the West Virginia Investment
69 Management Board set forth as in §12-6-1 et seq. of this code.

NOTE: The purpose of this bill relates to financial institutions engaged in boycotts of firearms companies; defining terms; authorizing the State Treasurer to prepare, maintain, and publish a list of financial institutions engaged in boycotts of firearms companies; requiring the Treasurer to post the list on his or her website and submit the list to certain public officials; setting forth sources of information on which the Treasurer may rely on preparing the list; requiring the Treasurer to send written notice to a financial institution of its inclusion on the list; requiring the Treasurer to remove a financial institution from the list if it presents information demonstrating that it is not engaged in a boycott of firearms companies; authorizing the Treasurer to exclude financial institutions on the list from the selection process for state banking contracts; authorizing the Treasurer to refuse to enter into a banking contract with a financial institution on the list; authorizing the Treasurer to require, as a term of a banking contract, an agreement by the financial institution not to engage in a boycott of firearms companies; and limiting liability of public officials, public employees, members or employees of financial institutions for actions taken in compliance with the new code section and exempting the Investment Management Board.

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