

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 2446**

By Delegates Horst, Coop-Gonzalez, Masters,  
Worrell, Jeffries, Crouse, White, Bridges, Mazzocchi,  
Phillips, and Ridenour

[Introduced February 17, 2025; referred to the Committee  
on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §15-17-1, §15-17-2, §15-17-3, §15-17-4, §15-17-5, and §15-17-6, relating to  
3 preserving and protecting the right to keep and bear arms; defining acts which constitute  
4 infringements upon the right to keep and bear arms; articulating the constitutional limits on  
5 these infringements and making findings in defense of the right; declaring all  
6 infringements under federal law or authority to be against the rights of the people and to be  
7 legally void; declaring the duty of courts and law-enforcement agencies to protect the  
8 rights of law-abiding citizens, including the right to keep and bear arms; providing causes  
9 of action against persons who knowingly infringe upon these rights; providing for awards of  
10 specified damages, costs, and attorneys' fees; and barring the employment of certain  
11 persons by the state or its political subdivisions for infringing actions taken under color of  
12 federal law.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 17. PRESERVATION OF THE RIGHT TO KEEP AND BEAR ARMS.**

### **§15-17-1. Legislative purpose and authority.**

1 The Legislature finds and declares that:

2 (1) The West Virginia Legislature is firmly resolved to support and defend the United States  
3 Constitution against every aggression, whether foreign or domestic, and is duty bound to oppose  
4 every infraction of those principles that constitute the basis of the union of the states because only  
5 a faithful observance of those principles can secure the nation's existence and the public  
6 happiness;

7 (2) Acting through the United States Constitution, the people of the several states created  
8 the federal government to be their agent in the exercise of a few defined powers, while reserving to  
9 the state governments the power to legislate on matters that concern the lives, liberties, and  
10 properties of citizens in the ordinary course of affairs;

11 (3) The limitation of the federal government's power is affirmed under the Tenth

Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the United States Constitution is reserved to the states respectively, or to the people themselves;

(4) Whenever the federal government assumes powers that the people did not grant it in the United States Constitution, its acts are unauthoritative, void, and of no force;

(5) The several states of the United States of America respect the proper role of the federal government, but reject the proposition that such respect requires unlimited submission. If the government, created by a compact among the states, was the exclusive or final judge of the extent of the powers granted to it by the states through the United States Constitution, the federal government's discretion, and not the United States Constitution, would necessarily become the measure of those powers. To the contrary, as in all other cases of compacts among powers having no common judge, each party has an equal right to judge for itself as to whether infractions of the compact have occurred, as well as to determine the mode and measure of redress. Although the several states have granted supremacy to laws and treaties made under the powers granted in the United States Constitution, such supremacy does not extend to various federal statutes, executive orders, administrative orders, court orders, rules, regulations, or other actions which restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of West Virginia. All such statutes, executive orders, administrative orders, court orders, rules, regulations, and other actions exceed the powers granted to the federal government except to the extent they are necessary and proper for governing and regulating land and naval forces of the United States or for organizing, arming, and disciplining of militia forces actively employed in the service of the armed forces of the United States;

(6) The people of the several states have given Congress the power "to regulate commerce with foreign nations, and among the several states", but "regulating commerce" does not include the power to limit citizens' right to keep and bear arms in defense of their families,

neighbors, persons, or property, or to dictate as to what sort of arms and accessories law-abiding West Virginians may buy, sell, exchange, or otherwise possess within the borders of this state;

(7) The people of the several states have also granted Congress the power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defense and general welfare of the United States" and "to make all laws which shall be necessary and proper for carrying into execution the powers vested by the United States Constitution in the government of the United States, or in any department or office thereof." These constitutional provisions merely identify the means by which the federal government may execute its limited powers and shall not be so construed to grant unlimited power because to do so would be to destroy the carefully constructed equilibrium between the federal and state governments. Consequently, the Legislature rejects any claim that the taxing and spending powers of Congress can be used to diminish in any way the right of the people to keep and bear arms;

(8) The people of West Virginia have vested the Legislature with the authority to regulate the manufacture, possession, exchange, and use of firearms within the borders of this state, subject only to the limits imposed by the Second Amendment to the Constitution of the United States and by Article III, Section 22 of the West Virginia Constitution; and

(9) The West Virginia Legislature strongly promotes responsible gun ownership, including parental supervision of minors in the proper use, storage, and ownership of all firearms, the prompt reporting of stolen firearms, and the proper enforcement of all state gun laws. The West Virginia Legislature hereby condemns any unlawful transfer of firearms and the use of any firearm in any criminal or unlawful activity.

**§15-17-2. Definition.**

For the purposes of this article, the term "law-abiding citizen" shall mean a person who is not otherwise precluded under state law from possessing a firearm and shall not be construed to include anyone who is not legally present in the United States or the State of West Virginia.

**§15-17-3. Laws in derogation of constitutional protections are void.**

1        (a) The following federal acts, laws, executive orders, administrative orders, court orders,  
2 rules, and regulations shall be considered infringements on the people's right to keep and bear  
3 arms, as guaranteed by the Second Amendment of the Constitution of the United States and  
4 Article III, Section 22 of the Constitution of West Virginia, within the borders of this state including,  
5 but not limited to:

6        (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition  
7 not common to all other goods and services which might reasonably be expected to create a  
8 chilling effect on the purchase or ownership of those items by law-abiding citizens;

9        (2) Any registering or tracking of firearms, firearm accessories, or ammunition which might  
10 reasonably be expected to create a chilling effect on the purchase or ownership of those items by  
11 law-abiding citizens;

12        (3) Any registering or tracking of the owners of firearms, firearm accessories, or  
13 ammunition which might reasonably be expected to create a chilling effect on the purchase or  
14 ownership of those items by law-abiding citizens;

15        (4) Any act forbidding the possession, ownership, or use or transfer of a firearm, firearm  
16 accessory, or ammunition by law-abiding citizens; and

17        (5) Any act ordering the confiscation of firearms, firearm accessories, or ammunition from  
18 law-abiding citizens.

19        (b) All federal acts, laws, executive orders, administrative orders, court orders, rules, and  
20 regulations, regardless if enacted before or after the provisions of this article, which infringe on the  
21 people's right to keep and bear arms as guaranteed by the Second Amendment to the Constitution  
22 of the United States and Article III, Section 22 of the Constitution of West Virginia, shall be invalid  
23 in this state, shall not be recognized by this state, shall be specifically rejected by this state, and  
24 shall be considered null and void and of no effect in this state.

**§15-17-4.        Duties        of        courts        and        law-enforcement        agencies.**

1        The courts and law-enforcement agencies of this state have an affirmative duty to protect

2 the rights of law-abiding citizens to keep and bear arms within the borders of this state and to  
3 protect these rights from the infringements outlined under §15-17-3.

**§15-17-5. Prohibited acts, right of action, award of fees and costs, limitation of immunities.**

1 (a) No person, including any public officer or employee of this state or any political  
2 subdivision of this state, shall have the authority to enforce or attempt to enforce any federal acts,  
3 laws, executive orders, administrative orders, court orders, rules, regulations, statutes, or  
4 ordinances infringing on the right to keep and bear arms outlined under §15-17-3.

5 (b) Any entity or person who acts knowingly violates the provisions of subsection (a) of this  
6 section or otherwise knowingly deprives a citizen of West Virginia of the rights or privileges  
7 ensured by the Second Amendment of the Constitution of the United States or Article III,  
8 Section 22 of the Constitution of West Virginia, while acting under the color of any state or federal  
9 law, shall be liable to the injured party in an action at law, suit in equity, or other proper proceeding  
10 for redress. In such actions, the court may award the prevailing party, other than the State of West  
11 Virginia or any political subdivision of the state, reasonable attorney's fees and costs. Sovereign,  
12 official, and qualified immunity shall not be allowed as affirmative defenses in any action brought  
13 pursuant to the provisions of this subsection.

**§15-17-6. Prohibited acts, right of action, award of fees and costs, limitation of immunities.**

1 (a) Any person while acting as an official, agent, employee, or deputy of the government of  
2 the United States, or while otherwise acting under the color of federal law while within the borders  
3 of this state, who knowingly: (1) Enforces or attempts to enforce any of the infringements outlined  
4 in §15-17-3; or (2) Gives material aid and support to the efforts of others who enforce or attempt to  
5 enforce any of the infringements outlined in §15-17-3; shall be permanently ineligible to serve as a  
6 law-enforcement officer or to supervise law-enforcement officers for the state or any political  
7 subdivision of the state.

8 (b) Neither the state nor any political subdivision of the state shall employ as a law-  
9 enforcement officer or supervisor of law-enforcement officers any person who found to be

ineligible to serve in such capacity under this section.

(c) Any person residing in or conducting business in a jurisdiction who believes that a law-enforcement officer or supervisor of law-enforcement officers of such jurisdiction has taken action that would render that person ineligible under this section to serve in such capacity shall have standing to pursue an action for declaratory judgment in the circuit court of the county in which the action allegedly occurred, or in the circuit court of Kanawha County, with respect to the employment eligibility of the law-enforcement officer or the supervisor of law-enforcement officers under this section.

(d) If a court determines that a law-enforcement officer or supervisor of law-enforcement officers has taken any action that would render him or her ineligible to serve in that capacity under this section:

(1) The law-enforcement officer or supervisor of law-enforcement officers shall immediately be terminated from his or her position; and

(2) The agency or political subdivision that employed the ineligible law-enforcement officer or supervisor of law-enforcement officers shall be required to pay the court costs and attorney's fees associated with the declaratory judgment action that resulted in the finding of ineligibility.

(e) Nothing in this section shall preclude a person's right of appeal, grievance, or remediation otherwise provided under this code.

NOTE: The purpose of this bill is to define acts which constitute infringements of the right to keep and bear arms, to articulate the constitutional limits on such infringements, to declare all such infringements to be against the rights of the people and to be legally void, and to provide remedies for acts taken under the color of federal law.

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