

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2974

**FISCAL
NOTE**

By Delegates Anders, Kump, Coop-Gonzalez, White,
Dillon, Ridenour, Mazzocchi, T. Howell, Kimble,
Masters, and Crouse

[Introduced February 25, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, to add a new article designated
2 §5-32-1, §5-32-2 and §5-32-3, relating to creating the Second Amendment Preservation
3 Act; stating a short title; providing legislative findings; prohibiting regulation of intrastate
4 firearm sales and transfers; providing civil and criminal penalties; authorizing Attorney
5 General to defend and prosecute; and addressing sovereign immunity.

Be it enacted by the Legislature of West Virginia:

ARTICLE 32. SECOND AMENDMENT PRESERVATION ACT.

§5-32-1. Short title.

1 This act shall be cited as the "Second Amendment Preservation Act".

§5-32-2. Legislative findings.

1 The Legislature finds that:

2 (1) The Second Amendment to the Constitution of the United States provides: "A well-
3 regulated Militia, being necessary to the security of a free state, the right of the people to keep and
4 bear arms, shall not be infringed".

5 (2) Section twenty-two, Article III of the Constitution of the State of West Virginia provides:
6 "A person has the right to keep and bear arms for the defense of self, family, home, and state, and
7 for lawful hunting and recreational use".

8 (3) Each federal agency, like the Bureau of Alcohol, Tobacco, Firearms and Explosives
9 ("ATF"), and all federal statutes, laws, orders, regulations, or any other actions, which attempt to
10 restrict, tax, or regulate the intrastate sale or transfer of firearms, firearms accessories and
11 ammunition within the state of West Virginia violate the Second Amendment to the Constitution of
12 the United States and Section twenty-two, Article III of the Constitution of the State of West
13 Virginia.

§5-32-3. Prohibitions; penalties; attorney general duty to defend and prosecute; sovereign
immunity.

1 (a) Pursuant to this act:

2 (1) Laws, orders, regulations or other actions that restrict or prohibit the intrastate sale or
3 transfer of firearms, firearm accessories, or ammunition exclusively within this state exceed the
4 powers granted to the federal government except to the extent they are necessary and proper for
5 governing and regulating land and naval forces of the United States or for organizing, arming, and
6 disciplining militia forces actively employed in the service of the United States Armed Forces.

7 (2) All federal acts, laws, executive orders, administrative orders, court orders, rules, and
8 regulations that infringe on the people's right to keep and bear arms as guaranteed by the Second
9 Amendment to the United States Constitution and section twenty-two, Article III of the West
10 Virginia Constitution shall be null and invalid, including those that prohibit the intrastate sale or
11 transfer of a firearm, firearm accessories, or ammunition; or order the confiscation of these items.

12 (3) It shall be the duty of the courts and law enforcement agencies to protect the rights of
13 law-abiding citizens to keep and bear arms and that no person, including a public officer or
14 employee of this state or any political subdivision of this state, shall have the authority to enforce or
15 attempt to enforce any federal laws, orders, or rules infringing on the right to keep and bear arms.

16 (4) Any entity, to include the ATF, or person who knowingly acts under the color of any
17 federal or state law to deprive a West Virginia citizen of the rights or privileges ensured by the
18 federal and state constitutions to keep and bear arms must be liable to the injured party for
19 redress, including monetary damages in the amount of \$50,000 per occurrence and injunctive
20 relief. Reasonable attorney fees and costs may be awarded to the prevailing party with specified
21 exceptions. The employer of the individual who is found liable is responsible for the civil penalty,
22 attorney's fees, and court costs associated with the litigation if the individual is found to have
23 violated this act. Government entities may not recover under this article.

24 (5) The federal excise tax rate on arms and ammunition in effect prior to the passage of this
25 article, which funds programs under the Pittman-Robertson Wildlife Restoration Act, does not
26 have a chilling effect on the purchase or ownership of intrastate arms and ammunition.

27 (6) Nothing in these sections shall be construed to prohibit West Virginia officials from
28 accepting aid from federal officials in an effort to enforce West Virginia law.

29 (b)(1) The Attorney General shall defend a citizen of West Virginia who is prosecuted by
30 the United States Government for a violation of federal law relating to the intrastate purchase,
31 acquisition, sale, or transfer of a firearm, a firearm accessory, or ammunition sold or transferred in
32 intrastate commerce.

33 (2) The Attorney General shall file civil litigation against the ATF or other federal agency,
34 agent, contractor, or employee who violates this article, and shall be entitled to monetary damages
35 in the amount of amount of \$50,000 per occurrence, injunctive relief, and reasonable attorney's
36 fees.

37 (3) The Attorney General shall pursue the criminal prosecution of any ATF or other federal
38 agent, contractor, or employee who violates this article. A person convicted of a violation
39 hereunder shall be guilty of a misdemeanor, and subject to a fine of not more than \$1,000 and a
40 sentence of incarceration for not more than one year in a state correctional facility.

41 (c) Sovereign immunity shall not be a defense to a violation of this article.

NOTE: The purpose of this bill is to create the Second Amendment Preservation Act. The bill states a short title; provides legislative findings; prohibits regulation of intrastate firearm sales and transfers; provides for civil and criminal penalties; authorizes Attorney General to defend and prosecute; and addresses sovereign immunity.

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