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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 2650

(By Delegates Linch, Faircloth, Harrison,
Proudfoot, Staton, Warner and Collins)



Passed March 13, 1998

In Effect from Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2650

(BY DELEGATES LINCH, FAIRCLOTH, HARRISON, PROUDFOOT,
STATON, WARNER AND COLLINS)

[Passed March 13, 1998; in effect from passage.]

AN ACT to amend and reenact section three, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section five-a, article twelve, chapter eight of said code, all relating to restricting the power of counties and municipalities to control the purchase, possession, transfer, carrying, transport, sale and storage of certain weapons and ammunition; and providing certain exceptions thereto.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section five-a, article twelve, chapter eight of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

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

- 1 The county commissions, through their clerks, shall
- 2 have the custody of all deeds and other papers presented

3 for record in their counties and the same shall be
4 preserved therein, or otherwise disposed of as now is, or
5 may be prescribed by law. They shall have jurisdiction in
6 all matters of probate, the appointment and qualification
7 of personal representatives, guardians, committees,
8 curators and the settlement of their accounts and in all
9 matters relating to apprentices. They shall also, under the
10 rules as now are or may be prescribed by law, have the
11 superintendence and administration of the internal police
12 and fiscal affairs of their counties, including the
13 establishment and rule of roads, ways, streets, avenues,
14 drives and the like, and the naming or renaming thereof,
15 in cooperation with local postal authorities, the division of
16 highways and the directors of county emergency
17 communications centers, to assure uniform, nonduplicative
18 conversion of all rural routes to city-type addressing on a
19 permanent basis, bridges, public landings, ferries and mills,
20 with authority to lay and disburse the county levies. They
21 shall, in all cases of contest, judge of the election,
22 qualification and returns of their own members, and of all
23 county and district officers, subject to appeal as prescribed
24 by law. The tribunals as have been heretofore established
25 by the Legislature under and by virtue of section
26 thirty-four, article VIII of the constitution of one thousand
27 eight hundred seventy-two, for police and fiscal purposes,
28 shall, until otherwise provided by law, remain and continue
29 as at present constituted in the counties in which they have
30 been respectively established, and shall be and act as to
31 police and fiscal matters in lieu of the county commission
32 herein mentioned, until otherwise provided by law. And
33 until otherwise provided by law, the clerk as is mentioned
34 in section twenty-six, article VIII of the constitution, as
35 amended, shall exercise any powers and discharge any
36 duties heretofore conferred on, or required of, any court
37 or tribunal established for judicial purposes under said
38 section of the constitution of one thousand eight hundred
39 seventy-two, or the clerk of the court or tribunal,
40 respectively, respecting the recording and preservation of
41 deeds and other papers presented for record, matters of
42 probate, the appointment and qualification of personal
43 representatives, guardians, committees, curators and the
44 settlement of their accounts and in all matters relating to
45 apprentices. The county commission may not limit the
46 right of any person to purchase, possess, transfer, own,

47 carry, transport, sell or store any revolver, pistol, rifle or
48 shotgun or any ammunition or ammunition components
49 to be used therewith nor to so regulate the keeping of
50 gunpowder so as to, directly or indirectly, prohibit the
51 ownership of the ammunition: *Provided*, That no
52 provision in this section may be construed to limit the
53 authority of a county to restrict the commercial use of
54 real estate in designated areas through planning or zoning
55 ordinances.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5a. Limitations upon municipalities' power to restrict the purchase, possession, transfer, ownership, carrying, transport, sale and storage of certain weapons and ammunition.

1 The provisions of section five of this article
2 notwithstanding, neither a municipality nor the governing
3 body of any municipality may limit the right of any
4 person to purchase, possess, transfer, own, carry, transport,
5 sell or store any revolver, pistol, rifle or shotgun or any
6 ammunition or ammunition components to be used
7 therewith nor to so regulate the keeping of gunpowder so
8 as to directly or indirectly prohibit the ownership of the
9 ammunition. Nothing herein shall in any way impair the
10 authority of any municipality, or the governing body
11 thereof, to enact any ordinance or resolution respecting
12 the power to arrest, convict and punish any individual
13 under the provisions of subdivision (16), section five of
14 this article or from enforcing any such ordinance or
15 resolution: *Provided*, That any municipal ordinance in
16 place as of the effective date of this section shall be
17 excepted from the provisions of this section: *Provided*
18 *however*, That no provision of this section may be
19 construed to limit the authority of a municipality to
20 restrict the commercial use of real estate in designated
21 areas through planning or zoning ordinances.

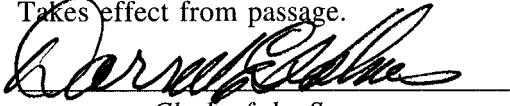
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee


Originating in the House.

Takes effect from passage.

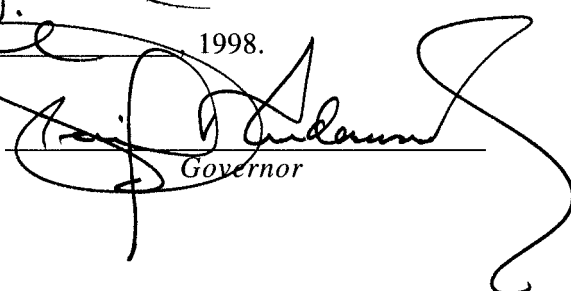

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within disapproved this the 15
day of April 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/98

Time 10:10 am