

SB 148

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 148

(By Senator DITTMAR, ET AL)



PASSED MARCH 3, 1999

In Effect NINETY DAYS FROM Passage

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SECRETARY OF STATE

ENROLLED

Senate Bill No. 148

(BY SENATORS DITTMAR, KESSLER, ROSS AND SNYDER)

[Passed March 3, 1999; in effect ninety days 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 have
2 the custody of all deeds and other papers presented for
3 record in their counties and the same shall be preserved
4 therein, or otherwise disposed of as now is, or may be
5 prescribed by law. They shall have jurisdiction in all
6 matters of probate, the appointment and qualification of
7 personal representatives, guardians, committees, curators
8 and the settlement of their accounts and in all matters
9 relating to apprentices. They shall also, under the rules as
10 now are or may be prescribed by law, have the superinten-
11 dence and administration of the internal police and fiscal
12 affairs of their counties, including the establishment and
13 regulation of roads, ways, streets, avenues, drives and the
14 like, and the naming or renaming thereof, in cooperation
15 with local postal authorities, the division of highways and
16 the directors of county emergency communications
17 centers, to assure uniform, nonduplicative conversion of
18 all rural routes to city-type addressing on a permanent
19 basis, bridges, public landings, ferries and mills, with
20 authority to lay and disburse the county levies. They shall,
21 in all cases of contest, judge of the election, qualification
22 and returns of their own members, and of all county and
23 district officers, subject to appeal as prescribed by law.
24 The tribunals as have been heretofore established by the
25 Legislature under and by virtue of section thirty-four,
26 article VIII of the constitution of one thousand eight
27 hundred seventy-two, for police and fiscal purposes, shall,
28 until otherwise provided by law, remain and continue as
29 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 of said article, as amended, shall
35 exercise any powers and discharge any duties heretofore
36 conferred on, or required of, any court or tribunal estab-
37 lished for judicial purposes under said section, or the clerk
38 of the court or tribunal, respectively, respecting the
39 recording and preservation of deeds and other papers
40 presented for record, matters of probate, the appointment
41 and qualification of personal representatives, guardians,
42 committees, curators and the settlement of their accounts

43 and in all matters relating to apprentices. The county
 44 commission may not limit the right of any person to
 45 purchase, possess, transfer, own, carry, transport, sell or
 46 store any revolver, pistol, rifle or shotgun or any ammuni-
 47 tion or ammunition components to be used therewith nor
 48 to so regulate the keeping of gunpowder so as to, directly
 49 or indirectly, prohibit the ownership of the ammunition:
 50 *Provided*, That no provision in this section may be con-
 51 strued to limit the authority of a county to restrict the
 52 commercial use of real estate in designated areas through
 53 planning or zoning 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 notwith-
 2 standing, neither a municipality nor the governing body of
 3 any municipality may limit the right of any person to
 4 purchase, possess, transfer, own, carry, transport, sell or
 5 store any revolver, pistol, rifle or shotgun or any ammuni-
 6 tion or ammunition components to be used therewith nor
 7 to so regulate the keeping of gunpowder so as to directly
 8 or indirectly prohibit the ownership of the ammunition.
 9 Nothing herein shall in any way impair the authority of
 10 any municipality, or the governing body thereof, to enact
 11 any ordinance or resolution respecting the power to arrest,
 12 convict and punish any individual under the provisions of
 13 subdivision (16), section five of this article or from enforc-
 14 ing any such ordinance or resolution: *Provided*, That any
 15 municipal ordinance in place as of the effective date of this
 16 section shall be excepted from the provisions of this
 17 section: *Provided, however*, That no provision in this
 18 section may be construed to limit the authority of a
 19 municipality to restrict the commercial use of real estate
 20 in designated areas through planning or zoning ordi-
 21 nances.

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

Rady Schoonover
.....

Chairman Senate Committee

Joe F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Parrell Holmes
.....
Clerk of the Senate

Suzanne B.
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *24th*
March
Day of, 1999

[Signature]
.....
Governor

GOVERNOR

Date 3/18/99

Time 11:15 am