

**First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 03-0631.01 Julie Pelegrin

SENATE BILL 03-025

SENATE SPONSORSHIP

Dyer

HOUSE SPONSORSHIP

(None)

Senate Committees

House Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING LIMITATION OF THE ABILITY OF A LOCAL GOVERNMENT**
102 **TO REGULATE FIREARMS, AND, IN CONNECTION THEREWITH,**
103 **IDENTIFYING FIREARMS REGULATION AS A MATTER OF**
104 **STATEWIDE CONCERN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Recognizes that firearms regulation is a matter of statewide concern. Prohibits a local government from adopting an ordinance, resolution, or other law that would impose a greater restriction on a person's ability to own, possess, carry, use, or transfer a firearm than is imposed by state law. Identifies imposition of a greater penalty as being

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

a greater restriction. Specifies that an ordinance, resolution, or other law in existence as of the effective date of the act that violates the provisions of the act shall be deemed unauthorized and unenforceable on or after the effective date of the act. Recognizes that a zoning ordinance that applies equally to all commercial establishments is not a restriction on a person's ability to own, possess, carry, use, or transfer a firearm.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 12 of title 18, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **18-12-112. Limitation on local ordinances regarding firearms**
5 **- legislative declaration.** (1)(a) THE GENERAL ASSEMBLY HEREBY FINDS
6 THAT:

7 (I) SECTION 3 OF ARTICLE II OF THE STATE CONSTITUTION, THE
8 ARTICLE REFERRED TO AS THE STATE BILL OF RIGHTS, DECLARES THAT ALL
9 PERSONS HAVE CERTAIN INALIENABLE RIGHTS, WHICH INCLUDE THE RIGHT
10 TO DEFEND THEIR LIVES AND LIBERTIES;

11 (II) SECTION 13 OF ARTICLE II OF THE STATE CONSTITUTION
12 PROTECTS THE FUNDAMENTAL RIGHT OF A PERSON TO KEEP AND BEAR
13 ARMS AND IMPLEMENTS SECTION 3 OF ARTICLE II OF THE STATE
14 CONSTITUTION;

15 (III) THE GENERAL ASSEMBLY RECOGNIZES A DUTY TO PROTECT
16 AND DEFEND THE FUNDAMENTAL CIVIL RIGHTS SET FORTH IN
17 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THIS SUBPARAGRAPH
18 (III);

19 (IV) THERE EXISTS A WIDESPREAD INCONSISTENCY AMONG
20 JURISDICTIONS WITHIN THE STATE WITH REGARD TO FIREARMS
21 REGULATIONS;

22 (V) THIS INCONSISTENCY AMONG LOCAL GOVERNMENT LAWS

1 REGULATING LAWFUL FIREARM OWNERSHIP, POSSESSION, CARRYING,
2 TRANSPORTATION, USE, AND TRANSFER HAS EXTRATERRITORIAL IMPACT
3 ON STATE CITIZENS AND THE GENERAL PUBLIC BY SUBJECTING THEM TO
4 CRIMINAL AND CIVIL PENALTIES IN SOME JURISDICTIONS FOR CONDUCT
5 WHOLLY LAWFUL IN OTHER JURISDICTIONS;

6 (VI) INCONSISTENCY AMONG LOCAL GOVERNMENTS OF LAWS
7 REGULATING THE OWNERSHIP, POSSESSION, CARRYING, TRANSPORTATION,
8 USE, AND TRANSFER OF FIREARMS RESULTS IN PERSONS BEING TREATED
9 DIFFERENTLY UNDER THE LAW SOLELY ON THE BASIS OF WHERE THEY
10 RESIDE, AND A PERSON'S RESIDENCE IN A PARTICULAR COUNTY OR CITY OR
11 CITY AND COUNTY IS NOT A RATIONAL CLASSIFICATION WHEN IT IS THE
12 BASIS FOR DENIAL OF EQUAL TREATMENT UNDER THE LAW;

13 (VII) THIS INCONSISTENCY PLACES CITIZENS IN THE POSITION OF
14 NOT KNOWING WHEN THEY MAY BE VIOLATING THE LOCAL LAWS AND
15 THEREFORE BEING UNABLE TO AVOID VIOLATING THE LAW AND BECOMING
16 SUBJECT TO CRIMINAL AND OTHER PENALTIES.

17 (b) BASED ON THE FINDINGS SPECIFIED IN PARAGRAPH (a) OF THIS
18 SUBSECTION (1), THE GENERAL ASSEMBLY CONCLUDES THAT:

19 (I) THE REGULATION OF FIREARMS IS A MATTER OF STATEWIDE
20 CONCERN;

21 (II) IT IS NECESSARY TO PROVIDE STATEWIDE LAWS CONCERNING
22 THE OWNERSHIP, POSSESSION, CARRYING, TRANSPORTATION, USE, AND
23 TRANSFER OF A FIREARM TO ENSURE THAT LAW-ABIDING PERSONS ARE NOT
24 UNFAIRLY PLACED IN THE POSITION OF UNKNOWINGLY COMMITTING
25 CRIMES INVOLVING FIREARMS.

26 (2) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
27 LOCAL GOVERNMENT SHALL NOT HAVE THE AUTHORITY TO ENACT AN

1 ORDINANCE, RESOLUTION, OR OTHER LAW THAT WOULD RESTRICT A
2 PERSON'S ABILITY TO OWN, POSSESS, CARRY, TRANSPORT, USE, OR
3 TRANSFER A FIREARM TO A GREATER EXTENT THAN THE PERSON'S ABILITY
4 TO OWN, POSSESS, CARRY, TRANSPORT, USE, OR TRANSFER A FIREARM IS
5 RESTRICTED BY STATE STATUTE; EXCEPT THAT A LOCAL GOVERNMENT MAY
6 ENACT AN ORDINANCE, RESOLUTION, OR OTHER LAW, TO PROHIBIT:

7 (I) A PERSON FROM OPENLY CARRYING IN PUBLIC A FIREARM THAT
8 IS NOT UNLOADED AND COMPLETELY ENCLOSED WITHIN A CASE
9 SPECIFICALLY DESIGNED FOR THE CARRYING OF FIREARMS. FOR PURPOSES
10 OF THIS SUBPARAGRAPH (I), A HOLSTER SHALL NOT BE CONSIDERED A
11 CASE.

12 (II) A PERSON FROM DISCHARGING A FIREARM WITHIN THE LOCAL
13 GOVERNMENT'S JURISDICTION.

14 (b) AN ORDINANCE, RESOLUTION, OR OTHER LAW THAT IMPOSES OR
15 OTHERWISE RESULTS IN A GREATER PENALTY FOR VIOLATION OF THE
16 ORDINANCE, RESOLUTION, OR OTHER LAW THAN WOULD BE IMPOSED FOR
17 OR RESULT FROM VIOLATION OF A STATE STATUTE PERTAINING TO THE
18 SAME OR SIMILAR SUBJECT MATTER SHALL BE DEEMED TO BE A GREATER
19 RESTRICTION THAN THAT IMPOSED BY STATE STATUTE.

20 (3) AN ORDINANCE, RESOLUTION, OR OTHER LAW PASSED PRIOR TO
21 THE EFFECTIVE DATE OF THIS SECTION THAT VIOLATES THE PROVISIONS OF
22 THIS SECTION SHALL BE VOID AND THEREFORE UNENFORCEABLE AS TO
23 EVENTS OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

24 (4) A LOCAL GOVERNMENT MAY ADOPT A ZONING ORDINANCE
25 THAT APPLIES EQUALLY TO ALL COMMERCIAL ESTABLISHMENTS,
26 INCLUDING COMMERCIAL ESTABLISHMENTS THAT DEAL WITH FIREARMS,
27 AND THE ORDINANCE SHALL NOT BE CONSTRUED TO RESTRICT A PERSON'S

1 ABILITY TO OWN, POSSESS, CARRY, TRANSPORT, USE, OR TRANSFER A
2 FIREARM.

3 **SECTION 2. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.