

REMEDIES FOR LOCAL LIMITATIONS ON GUN OWNERSHIP

Phone: (517) 373-8080
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House Bill 4795 (proposed substitute H-4)
Sponsor: Rep. Lee Chatfield
Committee: Local Government
Complete to 5-3-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4795 would amend Public Act 319 of 1990, regarding firearms and ammunition, to provide that if local gun control measures are imposed in opposition to state law, (1) a party that feels it has been adversely affected by a measure may bring an action in the circuit court where the local unit of government is located; (2) if the party is successful, the court will award remedies; and (3) if the party is successful, the local unit of government has certain notice requirements. The courses of action vary based on when the measure takes effect, as described below:

- If the measure in question predated enactment of this act, an individual or organization may bring an action 90 days after giving written notice to the local unit of government.
- If the measure is enacted or adopted after this act takes effect, the individual or organization may bring an action immediately or at any time after the measure is enacted.
- If the measure is repealed or amended while an action is pending, the court should award costs and reasonable attorney fees to the individual or organization challenging the measure.

Currently, local units of government may not impose certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols, other firearms, or pneumatic guns, ammunition for pistols or other firearms, or components of pistols or other firearms. This bill supplements the law by assigning remedies, penalties, and notice requirements.

If the court finds that the measure violates this act, it would issue an injunction restraining the local unit of government from enforcing the measure, order it to repeal the measure, and award actual damages, costs, and reasonable attorney fees to the individual or organization challenging the measure.

Further, if the court finds that an elected or appointed official, or the council, commission, or board of the local unit of government, knowingly and willfully violated the act, the elective or highest appointive executive official must notify by mail all registered electors in the local unit of government. The notice may not include the name of the individual or organization that brought the action, and must include both of the following:

- The circuit court's finding that the local unit of government knowingly and willfully violated this act; and
- The aggregate cost incurred by defending the action brought under this act, including, but not limited to, the amount of actual damages, costs, and reasonable attorney fees that were awarded to the party bringing the action.

This act would take effect 90 days after its enactment.

MCL 123.1101 through 123.1105

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and on local units of government. Costs to local units would be incurred if an elected or appointed official, or the council, commission, or board of a local unit government violated the provisions set forth in the bill. Costs would be incurred by the judiciary and local court funding units and would depend on how the provisions of the bill affected caseloads in the courts and related administrative costs.

Legislative Analyst: Jennifer McInerney
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.