

1 **H. B. 2580**

2
3 (By Delegates Folk, Nelson, J., Kump, Faircloth, Frich,
4 Phillips, R., Williams, Ireland, Perry, Householder and Cadle)

5
6 [Introduced February 21, 2013; referred to the
7 Committee on the Judiciary then Finance.]

8 **FISCAL**
9 **NOTE**

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §5-30-1 and §5-30-2,
12 all relating to providing that all future federal, state and
13 local statutes, ordinances, laws, orders and rules concerning
14 firearms, firearm accessories, ammunition and their
15 accouterments are invalid and unenforceable; making it a
16 felony to attempt to enforce a federal, state or local
17 statute, ordinance, law, order or rule concerning firearms,
18 firearm accessories, ammunition and their accouterments that
19 violate the state and federal constitutions; making findings;
20 providing penalties; requiring the Attorney General to defend
21 citizens of West Virginia who are prosecuted by the United
22 States government for violation of a federal law relating to
23 the manufacture, sale, transfer or possession of a firearm, a
24 firearm accessory or ammunition; providing for retroactivity;
25 and providing that *ex post facto* laws are not created.

26 *Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new article, designated §5-30-1 and §5-30-2,
3 all to read as follows:

4 **ARTICLE 30. RIGHT TO KEEP AND BEAR ARMS.**

5 **§5-30-1. Legislative findings.**

6 The Legislature of the State of West Virginia finds that:

7 (a) The Second Amendment to the Constitution of the United
8 States provides: "A well regulated Militia, being necessary to the
9 security of a free State, the right of the people to keep and bear
10 Arms, shall not be infringed."

11 (b) Article III, section twenty-two of the Constitution of
12 West Virginia provides: "A person has the right to keep and bear
13 arms for the defense of self, family, home and state, and for
14 lawful hunting and recreational use."

15 (c) All federal, state or local statutes, ordinances, laws,
16 orders or rules regarding firearms, firearms accessories and
17 ammunition violate the Second Amendment to the Constitution of the
18 United States and Article III, section twenty-two of the
19 Constitution of West Virginia.

20 **§5-30-2. Prohibitions on federal, state or local infringement of**
21 **the right to keep and bear arms, firearm accessories**
22 **and ammunition; felony; penalty; Attorney General to**
23 **defend; retroactivity; ex post facto.**

24 (a) The State of West Virginia declares that as all future

1 federal, state and local statutes, ordinances, laws, orders and
2 rules concerning firearms, firearm accessories, ammunition and
3 their accouterments contradict the true meaning and intent as given
4 by the founders and ratifiers of the Second Amendment to the
5 Constitution of the United States and Article III, section
6 twenty-two of the Constitution of the State of West Virginia those
7 statutes, ordinances, laws, orders and rules violate the
8 Constitution of the United States and the Constitution of the State
9 of West Virginia and are invalid.

10 (b) All future federal, state and local statutes, ordinances,
11 laws, orders and rules concerning firearms, firearm accessories,
12 ammunition and their accouterments shall not be recognized by this
13 state and shall not be given any recognition within the state as
14 they are against public policy. Those federal, state and local
15 statutes, ordinances, laws, orders and rules are specifically
16 rejected by the State of West Virginia and are null and void and of
17 no effect within the state.

18 (c) It is the duty of the State of West Virginia to adopt and
19 enact any and all measures as may be necessary to prevent the
20 enforcement of any future federal, state and local statutes,
21 ordinances, laws, orders and rules in violation of the Second
22 Amendment to the Constitution of the United States, Article III,
23 section Twenty-two of the Constitution of the State of West
24 Virginia and this section.

1 (d) Any attempt to enforce those federal, state and local
2 statutes, ordinances, laws, orders and rules within the State of
3 West Virginia by any official, officer or employee of the United
4 States government, the West Virginia government, any county
5 government or local government that infringes upon the right to
6 keep and bear arms is guilty of a felony and, upon conviction,
7 shall be confined in a correctional facility not more than two
8 years and a fine of not more than \$10,000.

9 (e) The Attorney General shall defend a citizen of West
10 Virginia who is prosecuted by the United States Government for
11 violation of a federal law relating to the manufacture, sale,
12 transfer or possession of a firearm, a firearm accessory or
13 ammunition.

14 (f) This article is effective retroactively to January 1,
15 2013. This article may not be construed so as to create any ex
16 post facto law.

NOTE: The purpose of this bill is to make all future federal, state and local statutes, ordinances, laws, orders and rules concerning firearms, firearm accessories, ammunition and their accouterments invalid and unenforceable. The bill makes it a felony to attempt to enforce a federal, state or local statute, ordinance, law, order or rule concerning firearms, firearm accessories, ammunition and their accouterments that violate the state and federal constitutions. The bill makes findings. The bill provides penalties. The bill requires the Attorney General to defend citizens of West Virginia who are prosecuted by the United States Government for violation of a federal law relating to the manufacture, sale, transfer or possession of a firearm, a firearm accessory or ammunition. The bill provides for retroactivity. The bill provides that *ex post facto* laws are not created.

This article is new; therefore, it has been completely underscored.