

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3047

BY DELEGATES MALLOW, LONGANACRE, KIMES,

BARNHART AND MANDT

[Introduced March 10, 2021; Referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §47-29-1, §47-29-2, §47-29-3, §47-29-4, §47-29-5, and §47-29-6, all relating
 3 to making West Virginia a 2nd Amendment “sanctuary state;” describing legislative
 4 findings; ensuring that the right to keep and bear arms is preserved in West Virginia in
 5 adherence to the United States Constitution; ensuring that state agents and officers are
 6 prohibited from bypassing their constitutional oath of office in relation to the 2nd
 7 Amendment of West Virginia; creating prohibitions and penalties; and providing an
 8 effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. WEST VIRGINIA 2ND AMENDMENT PRESERVATION ACT.

§47-29-1. Short Title.

1 This article shall be known and may be cited as the "West Virginia 2nd Amendment
 2 Preservation Act."

§47-29-2. Findings.

1 The Legislature of the State of West Virginia finds:

2 (1) That the right to keep and bear arms is a fundamental individual right that shall not be
 3 infringed, and;

4 (2) That it is the intent of the Legislature in enacting this act to protect West Virginia
 5 employees, including law enforcement officers, from being directed, through federal executive
 6 orders, agency orders, statutes, laws, rules, or regulations in effect on or after the effective date
 7 of this act, to violate their oath of office and individual rights affirmed under the 2nd Amendment
 8 to the Constitution for the United States and of the Constitution of the State of West Virginia, and;

9 (3) That pursuant to and in furtherance of the principles of federalism enshrined in the
 10 Constitution of the United States, the federal government may not commandeer this State's
 11 officers, agents, or employees to participate in the enforcement or facilitation of any federal act or
 12 regulatory program, and;

13 (4) That this right to be free from the commandeering hand of the federal government has
14 been most notably recognized by the United States Supreme Court in Printz v. United States
15 when the Court held: ‘The Federal Government may neither issue directives requiring the States
16 to address particular problems, nor command the States’ officers, or those of their political
17 subdivisions, to administer or enforce a federal regulatory program, and;

18 (5) That the anti-commandeering principles recognized by the Supreme Court in Printz v.
19 United States are predicated upon the advice of James Madison, who in Federalist #46 advised
20 “a refusal to cooperate with officers of the Union” in response to either unconstitutional federal
21 measures or constitutional but unpopular federal measures.

§47-29-3. Prohibitions.

1 Other than compliance with an order of the court, notwithstanding any law, regulation, rule
2 or order to the contrary, no agency of this state, political subdivision of this state, or employee of
3 an agency or political subdivision of this state acting in his or her official capacity shall:

4 (1) Knowingly and willingly participate in any way in the enforcement of any federal act,
5 law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law,
6 order, rule, or regulation does not exist under the laws of this state.

7 (2) Utilize any assets, state funds, or funds allocated by the state to local entities on or
8 after the effective date of this act, in whole or in part, to engage in any activity that aids a federal
9 agency, federal agent, or corporation providing services to the federal government in the
10 enforcement or any investigation pursuant to the enforcement of any federal act, law, order, rule,
11 or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule or
12 regulation does not exist under the laws of this state.

§47-29-4. Penalties.

1 Any agent or employee of this state, or of any political subdivision of this state who
2 knowingly violates the prohibitions in §47-29-3 of this code shall, on a first violation, be liable for
3 a civil penalty not to exceed \$3,000 which shall be paid into the general fund of the state, and on

4 a second or subsequent violation shall be guilty of a misdemeanor. A political subdivision of this
5 state may not receive state grant funds if the political subdivision adopts a rule, order, ordinance,
6 or policy under which the political subdivision violates §47-29-3 of this code. State grant funds for
7 the political subdivision shall be denied for the fiscal year following the year in which a final judicial
8 determination in an action brought under this section is made that the political subdivision has
9 intentionally required actions which violate the prohibitions in §47-29-3 of this code.

§47-29-5. Severability.

1 The provisions of this act are hereby declared to be severable and if any provision of this
2 act or the application of such provision to any person or circumstance is declared invalid for any
3 reason, such declaration shall not affect the validity of the remaining portions of this act.

§47-29-6. Effective date.

1 This act shall take effect on July 31, 2021.

NOTE: The purpose of this bill is to make West Virginia a 2nd Amendment sanctuary state and provide protections for the right to keep and bear arms against potentially unconstitutional federal restrictions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.