



HOUSE BILL 4795

A bill pending in the Michigan legislature, HB 4795, could force local governments and individual local officials to pay the gun lobby thousands of dollars for trying to protect residents from gun violence. The bill would allow groups like the National Rifle Association, and individual Michigan residents, to bring lawsuits against local governments and officials for damages and fines.

Although state law limits local government regulation of firearms, localities still retain some authority. HB 4795 would put local governments at risk for taking action in regard to firearms. Mich. Comp. Laws Serv. §§ 123.1103 and 123.1104 allow local governments to enact firearms laws such as those that are already a state crime, those that regulate transportation, carrying or possession of firearms by government employees, and laws that prohibit firearm discharge within the jurisdiction. The risk of lawsuits with steep monetary penalties and personal liability for individual officials would have a chilling effect on local legislators and keep them from acting to protect the safety of their communities.

Under HB 4795, a local government would be forced to pay attorney fees and costs even if it repealed or amended a challenged ordinance. If a local government were challenged in court and decided to repeal or amend its ordinance, HB 4795 would still require the locality to pay the NRA, or other plaintiff, attorney fees and costs that could add up to thousands of dollars.

HB 4795 would prohibit a local government from defending mayors, police chiefs and other appointed or elected officials who are sued for actions taken as part of official duties. Under HB 4795, no public funds could be used to defend or reimburse a local official who is sued even if he or she simply enforced a law or rule later found to be preempted. This violates the spirit of a long-standing rule, enshrined in the United States Constitution, which prohibits lawsuits brought against elected officials for actions performed as part of their legislative duties.

The outcomes of HB 4795 would be stark:

- Local governments could spend thousands, even millions of dollars defending themselves against an onslaught of lawsuits brought to take advantage of the monetary awards provided by HB 4795.
- Local governments who decide to repeal or amend challenged ordinances would still be forced to pay the attorney fees and legal costs for the plaintiff in lawsuits.
- Elected and appointed officials enacting policies, or even simply enforcing them, during the course of their job duties could be sued personally for up to 5,000 dollars. The local government would be prohibited from paying the fine or providing public money to defend the lawsuit.
- Enacting or enforcing any type of local regulation involving firearms, even the most mundane such as where a firearm may be discharged, would become too risky. Local governments and officials would be forced to stay away from any such regulation altogether and put residents in danger.