



# 2017-18 Critical Pro-Gun Legislation-PA House & Senate

1. Declared Emergency Gun Ban Fix - [HB2021](#)
2. Eliminate the PICs System - [SB 224](#) / [HB763](#)
3. Strengthening PA Firearm Preemption Law – [HB671](#) / [SB5](#)

*Legislation Source: <http://www.legis.state.pa.us/>*

## Item #1 Analysis Below:

### **Declared Emergency Gun Ban Fix – [HB2021](#)**

[HB2021](#) (Rep. Dowling) **this legislation ‘eliminates’ the unconstitutional gun ban in Title 18 §6107.** Current law gives State ‘and’ Local executives the power to ban firearms, except for citizens with Licenses to Carry Firearms, on all ‘public property’ just by declaring an Emergency. Circumventing the Constitution, especially during Emergencies, is not only ‘unconstitutional’ but just wrongheaded.

This legislation completely removes this authority to strip citizens of their rights in these dire circumstances!

## Item #2 Analysis Below:

### **Instant Check Change – Eliminate PICS & Move to NICS**

[SB 224](#) (Sen. Bartolotta) & [HB763](#) (Rep. Ortity) would replace the Pennsylvania Instant Check System (PICS) with the National Instant Check System (NICS) saving over \$7 million annually (with tens of millions of more dollars saved by avoiding required additional computer upgrades that adds to the burden on taxpayers) for the Commonwealth and millions more in fees for citizens as well as unburdening the legitimate firearms retailers from unnecessary complications in the firearms purchase process.

## Item #3 Analysis Below:

### **Strengthening PA Firearm Preemption Laws**

#### **[HB671](#) (Rep. Mark Keller) & [SB5](#) (Sen. Langerholc)**

When a community loses a lawsuit over the enactment of ‘local’ firearms laws the legal expenses of the challenge are borne by the plaintiff/challenger. Communities which enact their own ordinances/laws are in direct violation of, not only, PA law but also the Ortiz Supreme Court decision (1996) and Dillon’s Rule!

This legislation will allow for the recovery of legal expenses are incurred to stop these illegal laws in violation of PA Preemption Law, Title 18 §6120 Limitation on the regulation of firearms and ammunition.

Legislative debate on the importance of a statewide standard on firearms law is intertwined in numerous areas such as Constitutional law; Dillon’s Rule and several Supreme and Appeals court decisions.

If a court of law finds that an ordinance violates Pennsylvania Preemption law (Title 18, §6120), the local government shall pay damages, reasonable attorney fees and costs.

**\*\*We ask ALL gun owners** to urge ‘every’ PA Rep. & Senator to fight to bring these critically important bills to the floor. Ask your PA House/Senate member if he/she is a co-sponsor of this legislation and what their position is on this legislation, in writing. Please share their responses with us so we can add this information to their record on our Right to Bear Arms and our Constitutional Freedoms.

## More Important Pro-Gun Legislation-PA House & Senate

4. Constitutional Carry (known as two-tiered carry) - [HB170](#)

### MORE Legislation to Support

#### \*\*PA House

- HB 38
- HB 71
- HB 155
- [HB 156](#)
- HB 166
- HB 167
- HB 169
- [HB 170](#)
- HB 275
- HB 348
- HB 359
- [HB 420](#)
- HB 434
- HB 436
- HB 466
- HB 484
- HB 485
- HB 512
- HB 718
- [HB 761](#)
- [HB 763](#)
- HB 775
- HB 829
- HB 918
- HB 954
- HB 1026
- HB 1260
- HB 1483
- HB 1491
- HB 1493
- HB 1935
- [HB 2021](#)

#### \*\*PA Senate

- [SB 5](#)
- SB 37
- SB 123
- SB 135
- [SB 224](#)
- SB 453
- SB 498

5. Firearms Transfers During PICS Outages - [HB420](#)

6. Prohibition on Maintenance of Firearms Registry - [HB156](#)

**Item #4 Analysis Below:**

**Constitutional Carry of Firearms Legislation – [HB170](#)**

[HB170](#) (Rep. Saccone) **Constitutional Carry** is a situation within a jurisdiction in which the carrying of firearms, concealed or not, is generally not restricted by the law. When a state or other jurisdiction has adopted Constitutional Carry, it is legal for law-abiding citizens to carry a handgun, firearm, or other weapon concealed with or without an applicable permit or license.

The law decriminalizes the carry of handguns for self-defense purposes without a license, fixes the transportation of firearms problem, and puts the burden upon prosecutors to prove criminal intent of a person carrying a handgun. Also, there are no limitations as to whether a legally carried handgun should be carried openly or concealed; thus it is considered Constitutional Carry.

**13 states have ‘full’ Constitutional carry & 3 have limited Constitutional Carry:**

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|--------------------|--------------------------|---------------------------------------|
| 1. Vermont         | 7. Mississippi (2015)    | 13. North Dakota (2017)               |
| 2. Alaska (2003)   | 8. Maine (2015)          | 14. Oklahoma ( <i>Limited</i> )       |
| 3. Arizona (2010)  | 9. Missouri (2016)       | 15. New Mexico ( <i>Limited</i> )     |
| 4. Wyoming (2011)  | 10. Idaho (2016)         | 16. Montana (1991) ( <i>Limited</i> ) |
| 5. Arkansas (2013) | 11. West Virginia (2016) |                                       |
| 6. Kansas (2015)   | 12. New Hampshire (2017) |                                       |

*(Vermont’s Constitutional Carry has been in effect for over 3 decades-the state’s violent crime rate was the lowest in 2014)*

**Item #5 Analysis Below:**

**Firearms Transfers During PICS Outages – [HB420](#)**

[HB420](#) (Rep. Gabler) will ‘require’ that the PSP post on the main Internet site the cause and projected duration of PICS outages. This legislation will then provide that anyone with a License To Carry Firearms can still purchase firearms as well as allowing firearms purchases to proceed for ‘all’ citizens once 48 hours have passed since the outage began. A Record of Sale would still be required to be completed, all regular paperwork.

**Item #6 Analysis Below:**

**Prohibition on Maintenance of Firearms Registry - [HB156](#)**

[HB156](#) (Rep. Tallman) - Prohibition on Maintenance of Firearms Registry

With enactment of Pennsylvania's Uniform Firearms Act in 1995, the Commonwealth instituted a requirement that purchasers of firearms submit to a background check. Integral to the passage of the Uniform Firearms Act was Section 6111.4, which expressly prohibited any government or law enforcement agency from maintaining or operating a "registry of firearm ownership".

Despite the plain language of the Act, the Pennsylvania State Police have created and are maintaining a database of handgun owners from data obtained from such checks.

The Pennsylvania Supreme Court, in **Allegheny County Sportsmen's League v. Rendell** (2003), held that this database was not a "registry of firearm ownership" because it was not a ‘complete’ registry even though all information on the sale/transfer of handguns is retained.

Questions & Comments for FOAC: **Website:** [www.foac-pac.org](http://www.foac-pac.org) **E-Mail:** [info@foacpac.org](mailto:info@foacpac.org)

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**Firearm Owners Against Crime (FOAC)** is non-partisan, non-connected Political Action All-Volunteer Committee organized to empower all gun owners, outdoors enthusiasts and supporters of the 2nd Amendment to the Bill of Rights of the U.S. Constitution and Article 1 Section 21 and Section 25 of the PA Constitution with the tools and information necessary to protect this freedom from transgression. Candidates for office are evaluated every election cycle, approved, placed on an FOAC voter guide and distributed throughout the Commonwealth.