



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2828

by Rep. Margo McDermed

SYNOPSIS AS INTRODUCED:

430 ILCS 65/13.1	from Ch. 38, par. 83-13.1
745 ILCS 10/2-103	from Ch. 85, par. 2-103
745 ILCS 10/2-202	from Ch. 85, par. 2-202

Amends the Firearm Owners Identification Card Act. Provides that if a municipality enacts an ordinance in violation of preemption provisions of the Act, the municipality is liable for damages to the prevailing party in a civil action brought against the municipality or an officer or employee of the municipality for infringing upon the rights of the prevailing party for enforcing the ordinance enacted in violation of the preemption provisions. Amends the Local Governmental and Governmental Employees Tort Immunity Act to make conforming changes. Effective immediately.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Section 13.1 as follows:

6 (430 ILCS 65/13.1) (from Ch. 38, par. 83-13.1)

7 Sec. 13.1. Preemption.

8 (a) Except as otherwise provided in the Firearm Concealed
9 Carry Act and subsections (b) and (c) of this Section, the
10 provisions of any ordinance enacted by any municipality which
11 requires registration or imposes greater restrictions or
12 limitations on the acquisition, possession and transfer of
13 firearms than are imposed by this Act, are not invalidated or
14 affected by this Act.

15 (b) Notwithstanding subsection (a) of this Section, the
16 regulation, licensing, possession, and registration of
17 handguns and ammunition for a handgun, and the transportation
18 of any firearm and ammunition by a holder of a valid Firearm
19 Owner's Identification Card issued by the Department of State
20 Police under this Act are exclusive powers and functions of
21 this State. Any ordinance or regulation, or portion of that
22 ordinance or regulation, enacted on or before the effective
23 date of this amendatory Act of the 98th General Assembly that

1 purports to impose regulations or restrictions on a holder of a
2 valid Firearm Owner's Identification Card issued by the
3 Department of State Police under this Act in a manner that is
4 inconsistent with this Act, on the effective date of this
5 amendatory Act of the 98th General Assembly, shall be invalid
6 in its application to a holder of a valid Firearm Owner's
7 Identification Card issued by the Department of State Police
8 under this Act.

9 (c) Notwithstanding subsection (a) of this Section, the
10 regulation of the possession or ownership of assault weapons
11 are exclusive powers and functions of this State. Any ordinance
12 or regulation, or portion of that ordinance or regulation, that
13 purports to regulate the possession or ownership of assault
14 weapons in a manner that is inconsistent with this Act, shall
15 be invalid unless the ordinance or regulation is enacted on,
16 before, or within 10 days after the effective date of this
17 amendatory Act of the 98th General Assembly. Any ordinance or
18 regulation described in this subsection (c) enacted more than
19 10 days after the effective date of this amendatory Act of the
20 98th General Assembly is invalid. An ordinance enacted on,
21 before, or within 10 days after the effective date of this
22 amendatory Act of the 98th General Assembly may be amended. The
23 enactment or amendment of ordinances under this subsection (c)
24 are subject to the submission requirements of Section 13.3. For
25 the purposes of this subsection, "assault weapons" means
26 firearms designated by either make or model or by a test or

1 list of cosmetic features that cumulatively would place the
2 firearm into a definition of "assault weapon" under the
3 ordinance.

4 (c-5) If a municipality enacts an ordinance in violation of
5 this Section, the municipality is liable for damages to the
6 prevailing party in a civil action brought against the
7 municipality or an officer or employee of the municipality for
8 infringing upon the rights of the prevailing party for
9 enforcing the ordinance enacted in violation of this Section.

10 (d) For the purposes of this Section, "handgun" has the
11 meaning ascribed to it in Section 5 of the Firearm Concealed
12 Carry Act.

13 (e) This Section is a denial and limitation of home rule
14 powers and functions under subsection (h) of Section 6 of
15 Article VII of the Illinois Constitution.

16 (Source: P.A. 98-63, eff. 7-9-13.)

17 Section 10. The Local Governmental and Governmental
18 Employees Tort Immunity Act is amended by changing Sections
19 2-103 and 2-202 as follows:

20 (745 ILCS 10/2-103) (from Ch. 85, par. 2-103)

21 Sec. 2-103. Except as provided in subsection (c-5) of the
22 Firearm Owners Identification Card Act, a ~~A~~ local public entity
23 is not liable for an injury caused by adopting or failing to
24 adopt an enactment or by failing to enforce any law.

1 (Source: Laws 1965, p. 2983.)

2 (745 ILCS 10/2-202) (from Ch. 85, par. 2-202)

3 Sec. 2-202. Except as provided in subsection (c-5) of the
4 Firearm Owners Identification Card Act, a ~~A~~ public employee is
5 not liable for his act or omission in the execution or
6 enforcement of any law unless such act or omission constitutes
7 willful and wanton conduct.

8 (Source: P.A. 84-1431.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.