



June 26th, 2023

“Armor Piercing Ammunition”

What you need to know about armor, penetration, and statutory definitions.

HB 1117 is about to clear the House judiciary committee. The fact that it is unconstitutional in nature doesn't matter, it will go to the floor for consideration. What does that mean for the law-abiding citizen of this Commonwealth? To determine that, there are several factors that need considered.

Examining this bill and its text, it changes the language in Title 18 §6121 which makes it unlawful to use armor piercing ammunition in the commission of a crime. This proposal removes the commission of a crime requirement, and makes it illegal to possess, sell or transfer KTW Teflon-coated bullets or other armor-piercing ammunition. This presents several problems we would immediately challenge in this bill.

Defining “other armor piercing ammunition” is difficult. As we learned from the federal government's attempt at defining the phrase, this can lead to a very wide sweep of commonly used ammunition being illegal to possess, including almost every single self-defense caliber and hunting caliber used. When the federal government was tasked with defining the phrase, it led to a convoluted mess of what appears to be arbitrary decisions that in no way reflect the actual capabilities of the ammunition. Or better yet, specify what is considered “armor” for the purposes of identifying the medium that should not be penetrated.

Considering the federal definitions, we find that what we have is a virtually endless list of ammunition manufacturers, calibers, manufacturing materials, velocities, platforms, and exotics that may or may not penetrate armor, yet don't really fit into any definition that we can write to allow for consistency of law. How is a citizen of the Commonwealth supposed to know what he or she has is illegal if the federal or state government can't even accurately define it?

Now let's take this conversation the other way back to the Commonwealth law. This current statute, Title 18 §6121 offers a very low standard to meet the definition of “armor piercing”. The statute refers to armor piercing as any “ammunition which, when or if fired from any firearm as defined in section 6102 that is used or attempted to be used in violation of subsection (a) under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978.ⁱ

Suddenly, an extremely large range of ammunition is now illegal. Use a .30-06 to hunt deer? Sorry, that's illegal to possess now. Prefer a 30-30? That's illegal now too. Even a lot of your commonly carried handgun cartridges are now going to be illegal to possess. In fact, most commonly manufactured ammunition today would be deemed illegal as most commonly used rifle cartridges and a large number of pistol and revolver cartridges as well, would surpass that test. Like to target shoot with .22 long rifle because it's cheap? Not

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anymore. There's a reason law enforcement doesn't call their vests "bullet proof". There really is no such thing. I won't go into greater detail here on the matter because of the possibility the information could be used against our law enforcement women and men serving to protect each and every one of us, but suffice it to say they know the vulnerabilities of armor, and this bill will do nothing to keep any of them safe, despite the stated purpose of the bill. Reality beats intentions every time. Just be glad they wear better armor than that, usually. By this broad-spectrum view, it's safe to say that almost ALL rifle ammunition must be removed from public possession, sale, or transfer, instantly making the majority of rifles impotent and eliminating a large segment of hunters in Pennsylvania. Worse yet, doing so will have zero impact on criminals or their actions, except maybe weaken the law-abiding citizens ability to defeat them.

And what about the citizens' ability to be safe from violent criminals wearing body armor? Need we remind everyone of the two bank robbers fifteen years ago who robbed a bank in heavy armor who managed to wound eleven police officers and six civilians in a 45-minute marathon because they fabricated their own body armor? Nobody, not even the police, were equipped at the time to deal with it. It changed police unit loadouts nationwide. There's a rise in use of body armor by violent criminals, and shouldn't the law-abiding citizen of this Commonwealth have the capability to stop one of these offenders should the need arise? Don't strip what could be a life-saving tool from the hands of the law-abiding citizen when we know the violent criminals are disobeying any changes to the statute this bill may hope to create anyway.

Article I, Section 21, and the 2nd Amendment both have a greater purpose in keeping the citizens of this Commonwealth safe from tyranny. The intentions of our founding fathers were quite clear in that the purpose behind the safeguarding of our rights is to ensure that the American citizen, Pennsylvanian or otherwise, can mount a legitimate defense against tyrannical government. To do so, the founding fathers recognized that the citizen needs access to the same tools that very government may use to oppress them. This belief has been slowly "compromised" away from the citizen at every turn in government. It's time for that to stop.

This is yet another bill being proposed that will do nothing to stop criminals and everything to hamper the law-abiding citizens of this Commonwealth. We will criminalize ammunition at a level that the lawyers and legislators can't even put into words and expect the citizens to grasp it referring to a federal study on ballistics or go to jail with no consistency of law to speak of. In all my years working with law enforcement I have never heard an officer say they'd be so much safer on the street if only they'd outlaw "armor piercing ammunition". The officers working the job know better. This kind of legislation since its enactment at the federal level began in 1968 cannot be shown to have had any impact on homicide rates or officer safety, nationwide. If you broaden the definition, as this bill seems to propose, you severely hamstring every citizens ability to defend their family or even hunt common game.

It is important to note that this type of broad reaching ammunition ban was pushed once before after media sensationalism was used to sell the myth of "cop killer bullets" for ratings in 1982, focusing on a round never sold to the public, and never used to kill a police officer. Still a truth today and not because of a statute. A similar standard was adopted identifying any bullet that penetrated a certain amount of Kevlar armor being used at the time, like what HB 1117 is proposing now using the level IIA standard. "Technical experts at the FBI, BATFE, Secret Service and police forensic labs throughout the country warned such a ban would be impractical and unenforceable. The National Rifle Association warned at the time it would impact more than 85% of all commonplace rifle ammunition."ⁱⁱ That bill was never passed because of those facts.

Once again, the anti-Constitution movement is trying to cure an illness by addressing the type of bandages we use. Seizing the tool of the crime or self-harm is in no way addressing the cause, and without properly addressing the cause, we will never see any reduction in violent crime.

In summary, the opposition to ammunition bans is based upon:

- Violation of the 2nd Amendment / Article I, Section 21.
- An inherent inability to accurately or easily define “armor piercing ammunition” with any consistency for the purposes of possession, sale, or transfer and understanding by the citizens of the Commonwealth.
- The current statutory Commonwealth definition is too broad for “armor piercing ammunition” and to criminalize possession would jeopardize the entire self-defense and sportsmen’s community.
- Should this bill alter the current statute, it will impact only the law-abiding and cost lives as opposed to saving them.
- The proposed changes do nothing to make law enforcement any safer.
- Current statute already imposes a five-year mandatory if used to commit a crime of violence without criminalizing the ammunition commonly used by law-abiding citizens in the Commonwealth for mere possession. If the changes are made, and law-abiding citizens challenge it in court, you risk losing the sentencing enhancement as well until an alternative can be reenacted to replace it.
- Current histories of the federal law show no impact on murders or suicide rates.

For the reasons above and more, banning armor piercing ammunition is an overwhelming violation of the Constitution of the Commonwealth of Pennsylvania. This proposed law is an unnecessary infringement of the rights of the citizens of this land and weakens the ability of the law-abiding citizen to defend themselves against the modern violent criminal while doing nothing to hamper that same criminal in his acts.

“The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”

If you should have any further questions or need clarification on the legality of the issues raised in this ILLEA White Paper, please feel free to e-mail us at info@foac-illea.org.

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Respectfully,



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Endnotes

ⁱ <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.061.021.000..HTM>

ⁱⁱ History of Federal Ammunition Law Restricting Projectiles Based Upon Construction – NRA-ILA 1996