



February 26, 2020

## **Position Statement:** Second Amendment Sanctuary Ordinances (SASO)

Many gun owners are asking about Second Amendment Sanctuary Ordinances or SASO's. First, this issue hinges on the understanding of PA Preemption law and the case law precedents surrounding Title 18, Section 6120?

The language in the 'General Rule' section is specific and is replicated below:

**(a) General rule.--**No county, municipality or township **may in any manner regulate** the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

Pay particular attention to the wording "**may in any manner**" then consider what that means in the context of our courts 'and' case law precedent such as the decisions in Ortiz, Philadelphia, Pittsburgh, Lower Merion, etc.

Our deep concerns regarding sanctuary ordinances are directly related to current preemption law and the long record of successful legal victories protecting it. These concerns about SASO's are shared by a great many including Pro-2A attorneys and legislators and even judges, and includes how it is distracting us from the real issues, such as HB 1066 (Preemption) **and the 2020 elections**, all things we should be focusing on. First, the article below, from the Tenth Amendment Center, explains the SASO issues fairly clearly in a basic fashion:

<https://tenthamentcenter.com/2020/01/06/introduction-to-virginia-2nd-amendment-sanctuaries/>

As to our deeper concerns, there are numerous areas in regard to these sanctuary ordinances/resolutions when contrasted with the current situations in PA and in consideration of PA Preemption Law legal precedents.

First, Ordinances have the force of law behind them and Resolutions do not. The specific language of the ordinance endorsed by the Gun Owners of America also attempts to eliminate immunity protections that county employees normally enjoy in the performance of their duties. This is a deep concern due to the interconnection with their duties and current state firearms law. This has a direct bearing on probation officers and deputy sheriffs to personal liability. A review of our additional concerns is below:

1. PA Municipal Code and Dillon's Rule specifically limits the authority of Counties, Cities and all local municipalities and, in addition, prohibits 'any' actions on the Right to Keep and Bear Arms.
2. PA Preemption law (Title 18, Section 6120) reserves the consideration of Constitutional Issues, especially the Right to Keep and Bear Arms (good and bad) to the State Legislature since 1974 and as strengthened in 1993.
3. Counties/Cities are 'not' equipped, educated on nor trained in Constitutional Law nor the nuances of PA's Uniform Firearms Act (PA Gun Laws)

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2<sup>nd</sup> Amendment*

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4. The concept of ‘Sanctuaries’ is rooted in the defiance of law by local communities which ignore Federal law and protect illegal immigrants and is a poor picture to paint to justify flaunting state or federal gun laws.
5. Supporting Sanctuary Counties/Cities sends a subliminal message to the courts that we agree with ‘local’ control of gun laws thus risking losing lawsuits against flagrant violations of PA Preemption law that are now underway in Pittsburgh, Harrisburg, Philadelphia, etc.
6. The proposed ordinance provides for lawsuits against county officials who expend resources on actions that could be interpreted of having harmed the rights of citizens even when complying with state edicts and regulations. For instance, this kind of liability could see Sheriffs sued for following the PA State Police regulations on LTCF (License To Carry Firearms-Section 6109) denials, among other nuances of PA law.

There are two additional issues I would like to point to. First, it is illegal to disclose PA citizens gun owner information yet ALL those who sign these petitions are doing that very thing. These petitions are discoverable through RTK (Right To Know) so their information can be obtained by anti-gun groups and anyone else. FOAC has repeatedly stated our opposition to the registration of gun owners and it would be hypocritical of us to not point out this danger.

In addition, IF these citizen petitions do NOT state that the citizen information provided can/will be used for other purposes then ANY use of that information outside the intended purpose on that petition is ‘illegal’. With some organizations using these petitions to data-mine they may be violating the law from what I’ve seen of screenshots of other petitions online.

It has been shown over many years that there is a point of no return for local laws. Arbitrary examples exist that transcend time from Dodge City to California that local control of rights becomes a tool to break up the guarantees in the Constitution.

People who believe in these Sanctuaries are acting out in frustration (we appreciate these thoughts) that they are being cut out of the debate by bureaucrats and certain elected officials on 2A issues in my opinion. This reflexive response ignores the basic concept that, like in war, the ‘enemy’ always gets a response in this fight. An example of this is illustrated in the editorial (at the link) below:

<https://www.inquirer.com/opinion/editorials/second-amendment-sanctuary-local-government-resolutions-red-flag-law-new-jersey--20200224.html>

Read this paragraph from the article and pay CLOSE attention to what they (the editorial board) are advocating:

***This sanctuary movement urges municipalities to “opt out” of laws governing guns. Maybe Philadelphia, which has long argued for the ability to make its own gun laws, could turn this movement on its head and “opt out” of state laws that restrict the city from making its own laws.***

This may be the first time I/we have EVER agreed with the Inquirer but for FAR different reasons than ‘they’ read into our concerns. Ignoring the structure of government will lead to leftist counties/cities pushing for more gun control and there is the rub. WHEN this happens the ‘courts’ will decide and that puts us up against billionaires and the left leaning appellate courts here in PA.

WHO handles those fights when we already have case precedent and what happens when THAT case precedent is cast aside on this new issue?

At the heart of this is a more scurrilous reason; GOA is pushing this and 'they' want to grow their membership by getting copies of 'all' these petitions, which is illegal in PA law 'IF' those signing are NOT notified that their information may be used for other purposes.

2A issues are complicated. Creating a series of islands of illegality in a sea of gun control controversy is just as stupid as the Japanese strategy of armed islands that saw them crushed incrementally. We either stand together as a whole 'or' we 'will' fall separately. In my view, gun owners are ill-prepared for the 'real' fight ahead and simplistic concepts like Sanctuaries demonstrate the lack of resolve for the bigger fight! They USED to be involved in the 90's but now . . . .?

The larger question is one they fail to ask themselves (partly out of fear of the answer) and it is WHAT happens 'when' this concept FAILS?? WHAT are they (Sanctuary) prepared to do?

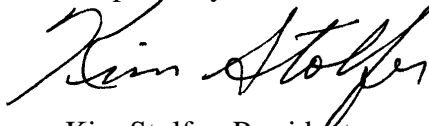
The Bedford County Commissioners just voted 'down' the Second Amendment Sanctuary Ordinance concept and their conclusions are right.

[https://www.bedfordgazette.com/news/commissioners-decide-against-second-amendment-sanctuary/article\\_d36cdf7-df84-5f3f-9e82-293c0a5f2d5e.html](https://www.bedfordgazette.com/news/commissioners-decide-against-second-amendment-sanctuary/article_d36cdf7-df84-5f3f-9e82-293c0a5f2d5e.html)

All in all, this is but a brief overview of these issues. I **WISH** these were an answer but in reality, they are nothing but a *distraction away from larger more complex and far more important issues*.

Thank you for your time and attention to this important issue!

Respectfully,



Kim Stolfer, President

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