

'Major financial hit' looming for Harrisburg, says legal defense group suing over firearm ordinances

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HARRISBURG- [A local lawyer and a retired Pennsylvania State Police Officer from Union County filed a lawsuit Tuesday](#) in Dauphin County demanding Harrisburg rescind five ordinances that relate to firearms.

Justin McShane, of the McShane Law Firm, and retired Cpl. Todd Hoover have legal standing to sue Harrisburg, even though neither are city residents, under a new state law that went into effect Jan. 5.

The plaintiffs, who said they filed on behalf of a legal defense program known as [U.S. Law Shield](#), based in Texas, had not been on the city's radar. The legal defense program recently began operating in the Commonwealth and has about 650 members in the state, McShane said.

Another law firm, representing four Pennsylvania gun owner groups, [previously threatened to sue Harrisburg if the city didn't repeal its firearm ordinances, but that firm has not yet filed suit.](#)

The goal of the McShane lawsuit is the same: to force Harrisburg to repeal its five "unlawful" ordinances.

Specifically, the ordinances [forbid possession of guns by minors and discharging of guns in the city](#) and in parks; [mandate reporting of lost or stolen guns](#); and [prohibit the sale or display of guns while the city is under a state of emergency](#).

McShane said he also plans to sue for attorney and legal fees, which is allowed under the new law. He would not commit to dropping the lawsuit if the city repeals its ordinances.

The plaintiffs chose to sue Harrisburg, even though other municipalities have similar ordinances, in part because of its symbolic significance, four blocks from the Capitol, McShane said.

"It's time for the capital city to learn that it has to follow the rules," he said.

The law, known as Act 192, expands a longstanding general rule in the statutes that the state is preemptively responsible for gun regulations.

Under Act 192, anyone with the right to own a gun, who is a member of an organization, can sue a municipality anywhere in Pennsylvania to challenge its gun ordinances.

Under the original law, a plaintiff had to prove damages to get legal standing to sue, such as being cited for a municipal gun ordinance.

McShane's 48-page lawsuit goes after the city on two fronts. It covers both the original preemptive law and Act 192, since the constitutionality of Act 192 has already been called into question, McShane explained during an afternoon news conference.

Even if Act 192 falls as unconstitutional, McShane said he would continue his lawsuit under the original law, by citing specific damages to prove his legal standing. He would not, however, be allowed under the original law to sue for legal fees.

The fact that McShane is prohibited from bringing his legally owned gun into a city park in Harrisburg is one example of a damage he has suffered, he said. If he had to defend himself by firing his gun, he could also be prosecuted under the city's current ordinances, which represents another possible damage claim, he said.

Harrisburg's ordinance against firing a gun in the city makes no provision for legal firing of guns in self-defense, it simply prohibits all gunfire, McShane said.

Harrisburg could take a serious financial "hit" by the lawsuit, McShane said, adding that the city will determine the extent of the hit through the lengths it chooses to defend the gun ordinances.

City officials did not provide any comments or reaction to the lawsuit filing. But Mayor Eric Papenfuse has previously said the city won't cave to gun owner groups because he thinks the ordinances are sensible and important to residents for public safety.

At Tuesday night's city council meeting, Papenfuse said he stood by his earlier comments, but could not provide any new comments.

If cities want stricter gun ordinances, they should go to the state Capitol and lobby for new gun laws and get the governor to sign them, McShane said.

"That's the social contract we have and that's the way it has to be done," he said. "Otherwise, it's illegal."

McShane defended the state's preeminence on gun laws by saying a patchwork of gun ordinances in various jurisdictions can make legal gun owners "accidental criminals."

Read the entire lawsuit by clicking [here](#).

UPDATE: *This article was updated to add a comment from Mayor Eric Papenfuse.*