



Written by [Bob Adelman](#) on November 21, 2024

## **Penn. High Court: State's Preemption Law Overrides Philadelphia's Gun Laws**

The Pennsylvania Supreme Court, heavily laden with Democrats, [ruled on Wednesday](#) that the state's preemption laws override Philadelphia's attempt to enact and enforce stricter gun control laws than the state already has in place.

### **"Unique" Approach**

The city tried a unique approach. It claimed that the right guaranteed in the state's constitution — "the right of the citizens to bear arms in defense of themselves and the State shall not be questioned" — was being violated by the state's preemption laws. It tried to persuade the high court that they prevented city officials from enacting more stringent gun control laws (that they just knew were necessary to reduce the city's gun violence) in order to protect that right!

As attorney Joshua Prince, one of the lead lawyers for the state, [wrote](#): "You simply cannot make this stuff up!"

The high court dealt with three issues, all revolving around the new and untested legal theory:

1. Whether the city of Philadelphia violated the state constitution's "guarantee of all Pennsylvanians' right to enjoy and defend life and liberty" by prohibiting it from enacting more draconian gun control laws;
2. Whether the state's preemption laws that prevented the city from enacting more rigorous laws created a "state-created danger" that violated the state's constitution; and
3. By requiring the city to protect its citizens from gun violence and then limiting the city's response, the state had created a "menace to public health," like gun violence.

Following a discussion of the impossible interpretation, the high court wrote:

Insofar as Appellants' claim [the innovative claim by the city] in this regard is one asserting that they have a constitutional right to be free of death and injury resulting from private gun violence that is created or increased by the state, we view such a claim to be indecipherable from their state-created danger claim, which we address and ultimately reject....

It scored the city for its innovative but hollow and ultimately unpersuasive argument:

Here, Appellants seek an interpretation of Article I, Section 1 of the Pennsylvania Constitution that would designate the individual right to "defend life and liberty" not just as



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a collective right but as a collective right to self-defense from private acts of gun violence, specifically by means of local legislation.

Simply put, Appellants provide no basis upon which to conclude that the right to “defend life and liberty” set forth in Article I, Section 1 is so broad as to encompass such a right.

Instead, Appellants rely upon general constitutional principles and paint their argument with overly broad strokes, using an amalgamation of pronouncements and concepts gleaned from inapt case law and secondary sources to support their position....

In sum, despite Appellants’ efforts to shine a light on a purported “collective right to self-defense by local regulation” housed in Article I, Section 1 of the Pennsylvania Constitution, their mere incantations of generalized constitutional principles and the like simply fail to provide a sufficient basis for us to conclude that such a right exists.

As Appellants have not identified a right protected under Article I, Section 1 that Appellees have infringed so as to implicate substantive due process, their first cause of action necessarily fails as a matter of law.

The court booted the second and third claims, for the same reason. No logical interpretation can be made that the state’s preemption laws prevent cities like Philadelphia from enacting even harsher gun control laws.

### **Massive Implications**

The implications of this ruling are massive. More than 40 states have [similar firearm preemption statutes](#). Had Pennsylvania’s high court bought the argument from Philadelphia, it is certain that gun controllers would immediately cite the ruling in seeking to overturn preemption statutes elsewhere.



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