PIMA COUNTY
BOARD OF SUPERVISORS

Rex Scott, District 1

TO: Melissa Manriquez, Clerk of the Board

FROM: Rex Scott, County Supervisor, District 1

RE: Addendum Item for August 2 Regular Meeting

DATED: July 27, 2022

Discussion/action: RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS CALLING FOR THE REPEAL OF A.R.S. SECTION 3108 AND REQUESTING FROM THE PIMA COUNTY ATTORNEY'S OFFICE OPTIONS TO CHALLENGE ITS LEGALITY AND/OR CONSTITUTIONALITY (District 1)

Thank you.

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RESOLUTION NO. 2022-____

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS CALLING FOR THE REPEAL OF A.R.S. SECTION 3108 AND REQUESTING FROM THE PIMA COUNTY ATTORNEY'S OFFICE OPTIONS TO CHALLENGE ITS LEGALITY AND/OR CONSTITUTIONALITY

WHEREAS, Arizona Revised Statues (A.R.S.) section Title 13, Section 3108(A), prohibits political subdivisions in Arizona, including Pima County, from enacting "any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms or ammunition or any firearm or ammunition components or related accessories in this state";

WHEREAS, A.R.S. § 13-3108(B) prohibits political subdivisions in Arizona, including Pima County, from requiring "the licensing or registration of firearms or ammunition or any firearm or ammunition components or related accessories or prohibit the ownership, purchase, sale or transfer of firearms or ammunition or any firearm or ammunition components, or related accessories";

WHEREAS, A.R.S. § 13-3108(C)(2) prohibits political subdivisions in Arizona, including Pima County, from requiring or maintaining, "a record in any form, whether permanent or temporary, including a list, log or database, of ... any identifying information of a person who owns, possesses, purchases, sells or transfers a firearm [except in the course of a law enforcement investigation]";

WHEREAS, A.R.S. § 13-3108(D) prohibits political subdivisions in Arizona, including Pima County, from enacting "any rule or ordinance that relates to firearms and is more prohibitive than or that has a penalty that is greater than any state law penalty. A political subdivision's rule or ordinance that relates to firearms and that is inconsistent with or more restrictive than state law, whether enacted before or after July 29, 2010, is null and void;"

WHEREAS, any ordinance, regulation, tax or rule that is enacted by a political subdivision in Arizona, including Pima County, that is found to violate A.R.S. § 13-3108 is invalid and subject to a permanent injunction against the political subdivision from enforcing the ordinance, regulation, tax or rule. It is not a defense that the political subdivision was acting in good faith or on the advice of counsel (*see* A.R.S. § 13-3108(H));

WHEREAS, if a court determines that a political subdivision has knowingly and wilfully violated A.R.S. § 13-3108, the court may assess a civil penalty of up to fifty thousand dollars against the political subdivision (*see* A.R.S. § 13-3108(I));

WHEREAS, if a court determines that a person has knowingly and wilfully violated A.R.S. § 13-3108 while acting in the person's official capacity through enactment of any ordinance, regulation, tax, measure, directive, rule, enactment, order or policy,

the person may be subject to termination from employment to the extent allowable under state law (*see* A.R.S. § 13-3108(J));

WHEREAS, if a court determines that a person has knowingly and wilfully violated A.R.S. § 13-3108 while acting in the person's official capacity through enactment of any ordinance, regulation, tax, measure, directive, rule, enactment, order or policy, the person may be subject to termination from employment to the extent allowable under state law (*see* A.R.S. § 13-3108(J));

WHEREAS, the Centers for Disease Control and Prevention (CDC) has recognized firearm injuries as a serious public health problem; and

WHEREAS, Pima County, through both the Board of Supervisors and its Health Department, has broad authority to take action to protect the public health and safety of all Pima County's inhabitants (*see* A.R.S. § 11-251 (17); A.R.S. Title 36, Chapter 1, Article 4; and *Marsoner v. Pima County*, 166 Ariz. 486 (1991), including authority to adopt and enforce "regulations necessary for the public health and safety of the inhabitants," A.R.S. § 36-183.02).

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board of Supervisors will call on the Arizona Legislature to repeal A.R.S. § 13-3108 and any other laws that inhibit the ability of local governments to take action to prevent gun violence, or to take other necessary measures related to the regulation of guns within the boundaries of their jurisdiction.

2. The Board of Supervisors requests from the Pima County Attorney's Office a set of options to challenge the legality and/or constitutionality of A.R.S. § 13-3108, especially regarding Pima County's statutory duties as the public health authority for all inhabitants of the County. These options should be presented to the Board of Supervisors no later than November 15, 2022.

Passed, adopted and approved, this ___ day of _____, 2022.

_____
Sharon Bronson, Chair
Pima County Board of Supervisors

ATTEST:

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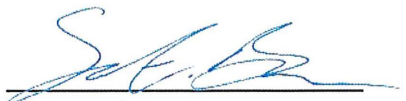
Melissa Manriquez, Clerk of the Board

APPROVED AS TO FORM:



_____
County Attorney