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HOUSE BILL 276

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

RELATING TO FIREARMS; ENACTING THE FIREARMS INDUSTRY LAWSUIT REFORM ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Firearms Industry Lawsuit Reform Act".

Section 2. LEGISLATIVE FINDINGS. --

A. The legislature finds that the lawful design, marketing, distribution, manufacture, sale or transfer of firearms, firearms components, ammunition or ammunition components to the public is not an unreasonable or dangerous activity and does not constitute a nuisance per se.

B. The legislature further finds that the unlawful use of firearms and ammunition, rather than the lawful design, marketing, distribution, manufacture, sale or transfer of

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1 firearms and ammunition, is the proximate cause of injuries
2 arising from the use of firearms and ammunition.

3 Section 3. AUTHORITY TO FILE A LAWSUIT RESERVED TO THE
4 STATE--EXCEPTIONS.--

5 A. The authority to file a lawsuit and seek
6 damages, injunctive relief or abatement on behalf of the state
7 or any political subdivision of the state from a firearms or
8 ammunition manufacturer, distributor, trade association or
9 dealer for the lawful design, marketing, distribution,
10 manufacture, sale or transfer of firearms and ammunition is
11 reserved exclusively to the state.

12 B. A lawsuit shall not be filed against a firearms
13 or ammunition manufacturer, distributor, trade association or
14 dealer unless the lawsuit is authorized by a law enacted by
15 the legislature.

16 C. The provisions of this section shall not
17 prohibit the state or a political subdivision of the state
18 from bringing a lawsuit against a firearms or ammunition
19 manufacturer, distributor, trade association or dealer for:

20 (1) breach of contract or breach of warranty
21 for firearms or ammunition purchased by the state or a
22 political subdivision; or

23 (2) injuries resulting from the malfunction
24 of a firearm or ammunition due to a defect in design or
25 manufacture.

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D. A firearm shall not be deemed defective in design or manufacture due to:

(1) the potential of a firearm to cause serious injury, property damage or death as a result of its normal function; or

(2) the potential of a firearm to cause serious injury, property damage or death when discharged legally or illegally.

Section 4. NO LIABILITY FOR FAILURE TO WARN FIREARMS USERS OF CERTAIN RISKS.--A firearms manufacturer or seller shall not incur liability for failing to warn firearms users that:

A. a firearm has the potential to cause serious injury, property damage or death when discharged legally or illegally;

B. an unauthorized person could gain access to a firearm;

C. a cartridge may be in the chamber of the firearm; or

D. a firearm is capable of being fired even when the ammunition magazine is removed.

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.