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FISCAL IMPACT REPORT

SPONSOR Thompson DATE TYPED 2/2/04 HB HJM 54
 SHORT TITLE End Tort Law Abuse Against Firearms Industry SB _____
 ANALYST Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI		See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

No Responses Received From

Administrative Offices of the Courts
 Administrative Offices of the District Attorneys
 Department of the Public Defender
 Office of the Attorney General

SUMMARY

Synopsis of Bill

House Joint Memorial 54 asserts the following premises:

- United States citizens have the right to keep and bear arms;
- Lawsuits have been brought against gun manufacturers, distributors, dealers and importers for the purpose of seeking money damages and other relief for the harm caused by the misuse of guns;
- Manufacturing, importing, possessing, selling and using guns and ammunition in the United States is heavily regulated under the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act;
- Businesses in the United States engaged in lawful interstate and foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse guns or ammunition;

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- 33 states throughout the country have passed legislation protecting manufacturers; and
- Pending federal legislation to prohibit civil liability actions against the industry has broad support.

Thereafter, the memorial resolves:

- The State of New Mexico Legislature request Congress approve legislation to end the abuse of tort laws against the gun industry.

Significant Issues

- Though the gun industry *is* highly regulated, those who seek to legitimately bear arms for honorable (e.g., constitutionally protected purposes) are *not* precluded from doing so.
- Civil litigation has a “consumer protection” component. It encourages industry members to adhere to the law and avoid intentional or negligent conduct that leads to harm to innocent people. Asking those who profit from their production and sale to act responsibly in their business dealings does not seem unreasonable.

Similarly, criminal actions against parents who rightfully possess a gun, but who act irresponsibly or negligently and allow the gun to fall into the hands of a child, have a protection component. Criminal actions encourage greater thought and caution.

- The gun industry is a high-risk industry. Those entering the business do so knowing assuming that risk. This memorial reads such that civil liability would be “prohibited”. (See Page 2, Line 11). Seemingly, there should be a middle ground between a prohibition on liability and being held legally and fiscally responsible for all the perils that may arise. In instances where members of the gun industry have acted negligently and placed guns in the hands of children or criminals no longer legally qualified to possess them, they should be held accountable. In instances where the safety standards of the law are met, there should be no liability.
- Arguably, there needs to be balance between the constitutional right to life, liberty and happiness (to live safely in this country without the fear of being the victim of gun violence because guns are readily available to those they should not be) and the constitutional right to bear arms for honorable purposes--- sports, protection of self, family and home, revolution against an unjust or illegitimate government, and the like.

SJM/yr