

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 114

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO TRADE PRACTICES; ENACTING THE FIREARM INDUSTRY
ACCOUNTABILITY ACT; REQUIRING REASONABLE CONTROLS AND
PROCEDURES; PROVIDING FOR A PUBLIC NUISANCE WHEN FIREARM
INDUSTRY MEMBERS FAIL TO EXERCISE REASONABLE CONTROLS AND
PROCEDURES; PROVIDING PRIVATE REMEDIES; PROVIDING A CIVIL
PENALTY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Firearm Industry Accountability Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Firearm Industry Accountability Act:

A. "firearm" means a weapon that is designed to or
may readily be converted to expel a projectile by the action of
an explosion or the frame or receiver of any such weapon,

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underscoring material = new
[bracketed material] = delete

1 including a handgun, rifle or shotgun;

2 B. "firearm industry member" means a person engaged
3 in the sale, manufacturing, making, importing, distribution,
4 advertising or marketing of a firearm product; and

5 C. "firearm product" means a firearm, firearm
6 component, firearm accessory, ammunition or any other product
7 sold for use as part of a firearm that is:

8 (1) sold, made, manufactured, distributed,
9 advertised or marketed in this state;

10 (2) intended to be sold, made, manufactured,
11 distributed, advertised or marketed in this state; or

12 (3) possessed or used in this state or that is
13 likely to be possessed or used in this state.

14 SECTION 3. [NEW MATERIAL] REASONABLE CONTROLS AND
15 PROCEDURES REQUIRED.--A firearm industry member shall establish
16 and implement reasonable controls and procedures regarding the
17 sale, manufacturing, making, importing, distribution, use,
18 advertising and marketing of a firearm product to:

19 A. prevent the loss or theft of a firearm product
20 from a firearm industry member;

21 B. ensure that a firearm industry member complies
22 with the provisions of federal and state laws and does not
23 promote the unlawful sale, manufacturing, making, importing,
24 distribution, use, advertising or marketing of a firearm
25 product; and

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1 C. prevent the unlawful or fraudulent sale or
2 distribution of a firearm product to a person who:

3 (1) conceals or intends to conceal that the
4 purchase of a firearm product is being made on behalf of a
5 third party, including a firearm product purchase made in
6 exchange for services or something of value, and not including
7 a bona fide gift to a person who is not prohibited by law from
8 possessing or receiving a firearm product;

9 (2) acquires or transfers or who attempts to
10 acquire or transfer a firearm product for purposes of unlawful
11 commerce;

12 (3) is prohibited from possessing a firearm
13 under federal or state law; or

14 (4) a firearm industry member has reasonable
15 cause to believe is at risk of using a firearm product to cause
16 imminent harm to the person's self or others.

17 SECTION 4. [NEW MATERIAL] FAILURE TO EXERCISE REASONABLE
18 CONTROLS AND PROCEDURES AS A PUBLIC NUISANCE--REMEDIES FOR
19 VIOLATIONS--CIVIL PENALTIES--PRIVATE REMEDIES.--

20 A. It is a public nuisance for a firearm industry
21 member to knowingly or recklessly fail to exercise reasonable
22 controls and procedures regarding the sale, manufacturing,
23 making, importing, distribution, use, advertising and marketing
24 of a firearm product.

25 B. The attorney general or a district attorney may

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1 bring a civil action by verified complaint to abate a public
2 nuisance described in this section. In such an action, the
3 court may abate the nuisance and also may award a civil penalty
4 to the state not exceeding five thousand dollars (\$5,000) for
5 each violation of this section.

6 C. A private citizen may bring a civil action by
7 verified complaint to abate a public nuisance described in this
8 section. A private citizen may also bring a civil action to
9 recover actual or punitive damages against a firearm industry
10 member as a result of a failure to exercise reasonable controls
11 and procedures regarding the sale, manufacturing, making,
12 importing, distribution, use, advertising and marketing of a
13 firearm product. The court shall award costs and reasonable
14 attorney fees to a private citizen who prevails in establishing
15 a violation of this section.

16 D. The relief provided in this section is in
17 addition to remedies otherwise available against the same
18 conduct under federal and state law.

19 E. Documentary material relating to the
20 establishment and implementation of reasonable controls and
21 procedures regarding the sale, manufacturing, making,
22 importing, distribution, use, advertising and marketing of a
23 firearm product in the possession of a firearm industry member
24 shall be made available for inspection upon written demand of
25 the attorney general or a district attorney.

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