

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 622
Senate Judiciary II Committee Substitute Adopted 7/9/02

Short Title: Firearm Regulation Amendments.

(Public)

Sponsors:

Referred to:

March 15, 2001

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT THE GENERAL ASSEMBLY DECLARE THAT THE
2
3 LAWFUL DESIGN, MARKETING, MANUFACTURE, DISTRIBUTION, SALE,
4 OR TRANSFER OF FIREARMS OR AMMUNITION TO THE PUBLIC IS NOT
5 AN UNREASONABLY DANGEROUS ACTIVITY AND DOES NOT
6 CONSTITUTE A NUISANCE PER SE; TO PROVIDE THAT THE AUTHORITY
7 TO BRING SUIT AGAINST ANY FIREARM OR AMMUNITION MARKETER,
8 MANUFACTURER, DISTRIBUTOR, DEALER, SELLER, OR TRADE
9 ASSOCIATION BY OR ON BEHALF OF ANY GOVERNMENTAL UNIT FOR
10 REMEDIES RESULTING FROM OR RELATED TO THE LAWFUL DESIGN,
11 MARKETING, MANUFACTURE, DISTRIBUTION, SALE, OR TRANSFER OF
12 FIREARMS OR AMMUNITION TO THE PUBLIC IS RESERVED
13 EXCLUSIVELY TO THE STATE; AND TO PROVIDE THAT ANY SUCH
14 ACTION SHALL BE BROUGHT BY THE ATTORNEY GENERAL ON
15 BEHALF OF THE STATE.

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** G.S. 14-409.40 reads as rewritten:

18 "**§ 14-409.40. Statewide uniformity of local regulation.**

19 (a) It is declared by the General Assembly that the regulation of firearms is
20 properly an issue of general, statewide concern, and that the entire field of regulation of
21 firearms is preempted from regulation by local governments except as provided by this
22 section.

23 (a1) The General Assembly further declares that the lawful design, marketing,
24 manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not
25 an unreasonably dangerous activity and does not constitute a nuisance per se and
26 furthermore, that it is the unlawful use of firearms and ammunition, rather than their
27 lawful design, marketing, manufacture, distribution, sale, or transfer that is the
28 proximate cause of injuries arising from their unlawful use. This subsection applies only
29 to causes of action brought under subsection (g) of this section.

1 (b) Unless otherwise permitted by statute, no county or municipality, by
2 ordinance, resolution, or other enactment, shall regulate in any manner the possession,
3 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms,
4 firearms ammunition, components of firearms, dealers in firearms, or dealers in
5 handgun components or parts.

6 (c) Notwithstanding subsection (b) of this section, a county or municipality, by
7 zoning or other ordinance, may regulate or prohibit the sale of firearms at a location
8 only if there is a lawful, general, similar regulation or prohibition of commercial
9 activities at that location. Nothing in this subsection shall restrict the right of a county or
10 municipality to adopt a general zoning plan that prohibits any commercial activity
11 within a fixed distance of a school or other educational institution except with a special
12 use permit issued for a commercial activity found not to pose a danger to the health,
13 safety, or general welfare of persons attending the school or educational institution
14 within the fixed distance.

15 (d) No county or municipality, by zoning or other ordinance, shall regulate in any
16 manner firearms shows with regulations more stringent than those applying to shows of
17 other types of items.

18 (e) A county or municipality may regulate the transport, carrying, or possession
19 of firearms by employees of the local unit of government in the course of their
20 employment with that local unit of government.

21 (f) Nothing contained in this section prohibits municipalities or counties from
22 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2,
23 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the
24 possession of firearms in public-owned buildings, on the grounds or parking areas of
25 those buildings, or in public parks or recreation areas, except nothing in this subsection
26 shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is
27 on these grounds or areas. Nothing contained in this section prohibits municipalities or
28 counties from exercising powers provided by law in declared states of emergency under
29 Article 36A of this Chapter.

30 (g) The authority to bring suit and the right to recover against any firearms or
31 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or
32 on behalf of any governmental unit, created by or pursuant to an act of the General
33 Assembly or the Constitution, or any department, agency, or authority thereof, for
34 damages, abatement, injunctive relief, or any other remedy resulting from or relating to
35 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or
36 ammunition to the public is reserved exclusively to the State. Any action brought by the
37 State pursuant to this section shall be brought by the Attorney General on behalf of the
38 State. This section shall not prohibit a political subdivision or local governmental unit
39 from bringing an action against a firearms or ammunition marketer, manufacturer,
40 distributor, dealer, seller, or trade association for breach of contract or warranty for
41 defect of materials or workmanship as to firearms or ammunition purchased by the
42 political subdivision or local governmental unit."

1 **SECTION 2.** The provisions of this act are severable. If any provision of
2 this act is held invalid by a court of competent jurisdiction, the invalidity does not affect
3 other provisions of the act that can be given effect without the invalid provision.

4 **SECTION 3.** This act is effective when it becomes law and applies to any
5 action pending or filed on or after that date.