

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**SENATE BILL 680**

Short Title: Right to Keep & Bear Arms Protection Act. (Public)

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Sponsors: Senators Odom; Albertson, Allran, Ballantine, Berger, Bingham, Carpenter, Carrington, Carter, Cunningham, Forrester, Foxx, Garrou, Garwood, Harris, Hartsell, Horton, Hoyle, Jordan, Kerr, Lee, Metcalf, Moore, Plyler, Robinson, Rucho, Shaw of Guilford, Swindell, Thomas, Warren, Weinstein, and Wellons.

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Referred to: Judiciary II.

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March 26, 2001

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT ONLY THE STATE MAY BRING CERTAIN CIVIL  
2 ACTIONS AGAINST FIREARMS OR AMMUNITION MARKETERS,  
3 MANUFACTURERS, DISTRIBUTORS, DEALERS, SELLERS, OR TRADE  
4 ASSOCIATIONS.  
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6 The General Assembly of North Carolina enacts:

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

8 "**§ 14-409.40. Statewide uniformity of local regulation.**

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

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

20 (b) Unless otherwise permitted by statute, no county or municipality, by  
21 ordinance, resolution, or other enactment, shall regulate in any manner the possession,  
22 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms,  
23 firearms ammunition, components of firearms, dealers in firearms, or dealers in  
24 handgun components or parts.

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

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

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

16 (f) Nothing contained in this section prohibits municipalities or counties from  
17 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2,  
18 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the  
19 possession of firearms in public-owned buildings, on the grounds or parking areas of  
20 those buildings, or in public parks or recreation areas, except nothing in this subsection  
21 shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is  
22 on these grounds or areas. Nothing contained in this section prohibits municipalities or  
23 counties from exercising powers provided by law in declared states of emergency under  
24 Article 36A of this Chapter.

25 (g) The authority to bring suit and the right to recover against any firearms or  
26 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or  
27 on behalf of any governmental unit, created by or pursuant to an act of the General  
28 Assembly or the Constitution, or any department, agency, or authority thereof, for  
29 damages, abatement, injunctive relief, or any other remedy resulting from or relating to  
30 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or  
31 ammunition to the public is reserved exclusively to the State. Furthermore, no action  
32 against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller,  
33 or trade association representing or promoting any such marketer, manufacturer,  
34 distributor, dealer, or seller shall be brought by the Attorney General without the  
35 authorization of the General Assembly by adoption of a concurrent resolution. This  
36 section shall not prohibit a political subdivision or local governmental unit from  
37 bringing an action against any firearms or ammunition marketer, manufacturer,  
38 distributor, dealer, seller, or trade association for breach of contract or warranty for  
39 defect of materials or workmanship as to firearms or ammunition purchased by the  
40 political subdivision or local governmental unit."

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

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