

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 938
Committee Substitute Favorable 4/27/99

Short Title: Firearm Regulation Amendments.

(Public)

Sponsors:

Referred to:

April 6, 1999

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; AND TO PROVIDE THAT THE
7 AUTHORITY TO BRING SUIT AGAINST ANY FIREARM OR AMMUNITION
8 MARKETER, MANUFACTURER, DISTRIBUTOR, DEALER, SELLER, OR
9 TRADE ASSOCIATION BY OR ON BEHALF OF ANY GOVERNMENTAL UNIT
10 FOR REMEDIES RESULTING FROM OR RELATED TO THE LAWFUL
11 DESIGN, MARKETING, MANUFACTURE, DISTRIBUTION, SALE, OR
12 TRANSFER OF 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 BEHALF
15 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.

1 (a) It is declared by the General Assembly that the regulation of firearms is
2 properly an issue of general, statewide concern, and that the entire field of regulation of
3 firearms is preempted from regulation by local governments except as provided by this
4 section. The General Assembly further declares that the lawful design, marketing,
5 manufacture, distribution, sale or transfer of firearms or ammunition to the public is not
6 an unreasonably dangerous activity and does not constitute a nuisance per se and
7 furthermore, that it is the unlawful use of firearms and ammunition, rather than their
8 lawful design, marketing, manufacture, distribution, sale or transfer that is the proximate
9 cause of injuries arising from their unlawful use. This subsection applies only to causes
10 of action brought under subsection (g) of this section.

11 (b) Unless otherwise permitted by statute, no county or municipality, by
12 ordinance, resolution, or other enactment, shall regulate in any manner the possession,
13 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms, firearms
14 ammunition, components of firearms, dealers in firearms, or dealers in handgun
15 components or parts.

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

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

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

31 (f) Nothing contained in this section prohibits municipalities or counties from
32 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-
33 269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of
34 firearms in public-owned buildings, on the grounds or parking areas of those buildings, or
35 in public parks or recreation areas, except nothing in this subsection shall prohibit a
36 person from storing a firearm within a motor vehicle while the vehicle is on these
37 grounds or areas. Nothing contained in this section prohibits municipalities or counties
38 from exercising powers provided by law in declared states of emergency under Article
39 36A of this Chapter.

40 (g) The authority to bring suit and the right to recover against any firearms or
41 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or
42 on behalf of any governmental unit, created by or pursuant to an act of the General
43 Assembly or the Constitution, or any department, agency, or authority thereof, for

1 damages, abatement, injunctive relief or any other remedy resulting from or relating to
2 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or
3 ammunition to the public is reserved exclusively to the State. Any action brought by the
4 State pursuant to this section shall be brought by the Attorney General on behalf of the
5 State. This section shall shall not prohibit a political subdivision or local governmental
6 unit from bringing an action against a firearms or ammunition marketer, manufacturer,
7 distributor, dealer, seller, or trade association for breach of contract or warranty for defect
8 of materials or workmanship as to firearms or ammunition purchased by the political
9 subdivision or local governmental unit."

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

13 Section 3. This act is effective when it becomes law and applies to any action
14 pending or filed on or after that date.