

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1098

Short Title: Rt. To Keep & Bear Arms Protection Act.

(Public)

Sponsors: Senator Webster.

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ONLY THE STATE MAY BRING CERTAIN CIVIL ACTIONS AGAINST FIREARMS OR AMMUNITION MARKETERS, MANUFACTURERS, DISTRIBUTORS, DEALERS, SELLERS, OR TRADE ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-409.40 reads as rewritten:

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

(a) It is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided by this section. The General Assembly further declares that the lawful design, marketing, manufacture, distribution, sale or transfer of firearms or ammunition to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing, manufacture, distribution, sale or transfer that is the proximate cause of injuries arising from their unlawful use.

(b) Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, or registration of firearms, firearms

1 ammunition, components of firearms, dealers in firearms, or dealers in handgun
2 components or parts.

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

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

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

18 (f) Nothing contained in this section prohibits municipalities or counties from
19 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-
20 269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of
21 firearms in public-owned buildings, on the grounds or parking areas of those buildings, or
22 in public parks or recreation areas, except nothing in this subsection shall prohibit a
23 person from storing a firearm within a motor vehicle while the vehicle is on these
24 grounds or areas. Nothing contained in this section prohibits municipalities or counties
25 from exercising powers provided by law in declared states of emergency under Article
26 36A of this Chapter.

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

1 Section 2. The provisions of this act are severable. If any provision of this act
2 is held invalid by a court of competent jurisdiction, the invalidity does not affect other
3 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 action
5 pending or filed on or after that date.