

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 938

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

(Public)

Sponsors: Representatives Sexton, Moore (Primary Sponsors); Allen, Allred, Baker, Barbee, Barefoot, Berry, Bonner, Bowie, Bridgeman, Brown, Brubaker, Buchanan, Cansler, Capps, Carpenter, Church, Clary, Cole, Cox, Crawford, Creech, Culp, Daughtry, Davis, Decker, Dedmon, Dockham, Earle, Eddins, Edwards, Ellis, Esposito, Fitch, Fox, Gardner, Gibson, Gillespie, Goodwin, Grady, Gray, Gulley, Hiatt, Hill, Holmes, Horn, Howard, Hunter, Hurley, Justus, Kiser, McAllister, McComas, McCombs, McCrary, McLawhorn, McMahan, Melton, Mitchell, Morris, Mosley, Neely, Nye, Owens, Preston, Rayfield, Redwine, Russell, Saunders, Setzer, Sherrill, Smith, Starnes, Sutton, Tallent, Teague, Thomas, Thompson, Tolson, Tucker, Wainwright, Walend, Warner, Warren, Warwick, C. Wilson, G. Wilson, Womble, Wright, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

April 6, 1999

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.
5

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

1 section. The General Assembly further declares that the lawful design, marketing,
2 manufacture, distribution, sale or transfer of firearms or ammunition to the public is not
3 an unreasonably dangerous activity and does not constitute a nuisance per se and
4 furthermore, that it is the unlawful use of firearms and ammunition, rather than their
5 lawful design, marketing, manufacture, distribution, sale or transfer that is the proximate
6 cause of injuries arising from their unlawful use.

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

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

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

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

27 (f) Nothing contained in this section prohibits municipalities or counties from
28 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-
29 269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of
30 firearms in public-owned buildings, on the grounds or parking areas of those buildings, or
31 in public parks or recreation areas, except nothing in this subsection shall prohibit a
32 person from storing a firearm within a motor vehicle while the vehicle is on these
33 grounds or areas. Nothing contained in this section prohibits municipalities or counties
34 from exercising powers provided by law in declared states of emergency under Article
35 36A of this Chapter.

36 (g) The authority to bring suit and the right to recover against any firearms or
37 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or
38 on behalf of any governmental unit, created by or pursuant to an act of the General
39 Assembly or the Constitution, or any department, agency, or authority thereof, for
40 damages, abatement, injunctive relief or any other remedy resulting from or relating to
41 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or
42 ammunition to the public is reserved exclusively to the State. Furthermore, no action
43 against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller,

1 trade association representing or promoting any such marketer, manufacturer, distributor,
2 dealer, or seller shall be brought by the Attorney General without the authorization of the
3 General Assembly by adoption of a concurrent resolution. This section shall not prohibit
4 a political subdivision or local governmental unit from bringing an action against a
5 firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade
6 association for breach of contract or warranty for defect of materials or workmanship as
7 to firearms or ammunition purchased by the political subdivision or local governmental
8 unit."

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

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