

State of Arizona
House of Representatives
Forty-fourth Legislature
First Regular Session
1999

HOUSE BILL 2275

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-714; AMENDING SECTION 13-3108, ARIZONA REVISED STATUTES; RELATING TO ACTIONS AGAINST FIREARM MANUFACTURERS.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 6, article 12, Arizona Revised Statutes,
3 is amended by adding section 12-714, to read:

4 12-714. Actions against firearm manufacturers; prohibition;
5 finding; definitions

6 A. A POLITICAL SUBDIVISION OF THIS STATE SHALL NOT COMMENCE A
7 QUALIFIED CIVIL LIABILITY ACTION IN ANY ARIZONA COURT.

8 B. THE LEGISLATURE FINDS THAT:

9 1. THE CITIZENS OF THIS STATE HAVE THE RIGHT, UNDER THE SECOND
10 AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE 2, SECTION 26 OF THE
11 ARIZONA CONSTITUTION, TO KEEP AND BEAR ARMS.

12 2. LAWSUITS HAVE BEEN COMMENCED AGAINST THE MANUFACTURERS,
13 DISTRIBUTORS, DEALERS AND IMPORTERS OF NONDEFECTIVE FIREARMS FOR THE HARM
14 CAUSED BY THE MISUSE OF FIREARMS BY THIRD PARTIES, INCLUDING CRIMINALS.

15 3. BUSINESSES IN THE UNITED STATES THAT ARE ENGAGED IN THE LAWFUL SALE
16 TO THE PUBLIC OF FIREARMS OR AMMUNITION ARE NOT, AND SHOULD NOT BE LIABLE FOR
17 THE HARM CAUSED BY THOSE WHO UNLAWFULLY MISUSE FIREARMS OR AMMUNITION.

18 4. THE POSSIBILITY OF IMPOSING LIABILITY ON AN ENTIRE INDUSTRY FOR
19 HARM THAT IS THE SOLE RESPONSIBILITY OF OTHERS IS AN ABUSE OF THE LEGAL
20 SYSTEM, THREATENS THE DIMINUTION OF A BASIC CONSTITUTIONAL RIGHT AND
21 CONSTITUTES AN UNREASONABLE BURDEN ON THE FREE ENTERPRISE SYSTEM.

1 5. THE LIABILITY ACTIONS COMMENCED BY POLITICAL SUBDIVISIONS ARE BASED
2 ON THEORIES WITHOUT FOUNDATION IN THE COMMON LAW AND AMERICAN JURISPRUDENCE.
3 SUCH AN EXPANSION OF LIABILITY WOULD CONSTITUTE A DEPRIVATION OF THE RIGHTS,
4 PRIVILEGES AND IMMUNITIES GUARANTEED TO CITIZENS OF THIS STATE UNDER BOTH THE
5 CONSTITUTION OF ARIZONA AND THE UNITED STATES CONSTITUTION.

6 C. AS USED IN THIS SECTION:

7 1. "MANUFACTURER" MEANS, WITH RESPECT TO A QUALIFIED PRODUCT:

8 (a) A PERSON WHO IS ENGAGED IN A BUSINESS TO IMPORT, MAKE, PRODUCE,
9 CREATE OR ASSEMBLE A QUALIFIED PRODUCT AND WHO DESIGNS OR FORMULATES, OR HAS
10 ENGAGED ANOTHER PERSON TO DESIGN OR FORMULATE, A QUALIFIED PRODUCT.

11 (b) A SELLER OF A QUALIFIED PRODUCT, BUT ONLY WITH RESPECT TO AN
12 ASPECT OF THE PRODUCT THAT IS MADE OR AFFECTED WHEN THE SELLER MAKES,
13 PRODUCES, CREATES OR ASSEMBLES AND DESIGNS OR FORMULATES AN ASPECT OF THE
14 PRODUCT MADE BY ANOTHER PERSON.

15 (c) ANY SELLER OF A QUALIFIED PRODUCT WHO REPRESENTS TO A USER OF A
16 QUALIFIED PRODUCT THAT THE SELLER IS A MANUFACTURER OF THE QUALIFIED PRODUCT.

17 2. "QUALIFIED CIVIL LIABILITY ACTION" MEANS A CIVIL ACTION BROUGHT BY
18 A POLITICAL SUBDIVISION AGAINST A MANUFACTURER OR SELLER OF A QUALIFIED
19 PRODUCT OR A TRADE ASSOCIATION, FOR DAMAGES RESULTING FROM THE CRIMINAL OR
20 UNLAWFUL MISUSE OF A QUALIFIED PRODUCT BY A THIRD PARTY. QUALIFIED CIVIL
21 LIABILITY ACTION DOES NOT INCLUDE AN ACTION BROUGHT AGAINST A TRANSFEROR
22 CONVICTED UNDER 18 UNITED STATES CODE SECTION 924(H) OR SECTION 13-3102,
23 SUBSECTION A, PARAGRAPH 14, BY A PARTY DIRECTLY HARMED BY THE CONDUCT OF
24 WHICH THE TRANSFEREE IS CONVICTED.

25 3. "QUALIFIED PRODUCT" MEANS A FIREARM AS DEFINED IN 18 UNITED STATES
26 CODE SECTION 921(A)(3) OR AMMUNITION AS DEFINED IN 18 UNITED STATES CODE
27 SECTION 921(A)(17), OR A COMPONENT PART OF A FIREARM OR AMMUNITION, THAT HAS
28 BEEN SHIPPED OR TRANSPORTED IN INTERSTATE OR FOREIGN COMMERCE.

29 4. "SELLER" MEANS, WITH RESPECT TO A QUALIFIED PRODUCT, A PERSON WHO
30 EITHER:

31 (a) IN THE COURSE OF A BUSINESS CONDUCTED FOR THAT PURPOSE SELLS,
32 DISTRIBUTES, RENTS, LEASES, PREPARES, BLENDS, PACKAGES, LABELS OR OTHERWISE
33 IS INVOLVED IN PLACING A QUALIFIED PRODUCT IN THE STREAM OF COMMERCE.

34 (b) INSTALLS, REPAIRS, REFURBISHES, RECONDITIONS OR MAINTAINS AN
35 ASPECT OF A QUALIFIED PRODUCT THAT IS ALLEGED TO HAVE RESULTED IN DAMAGES.

36 5. "TRADE ASSOCIATION" MEANS ANY ASSOCIATION OR BUSINESS ORGANIZATION,
37 WHETHER OR NOT INCORPORATED UNDER FEDERAL OR STATE LAW, TWO OR MORE MEMBERS
38 OF WHICH ARE MANUFACTURERS OR SELLERS OF A QUALIFIED PRODUCT.

39 Sec. 2. Section 13-3108, Arizona Revised Statutes, is amended to read:
40 13-3108. Firearms regulated by state; state preemption

41 A. ~~Ordinances of any~~ A political subdivision of this state SHALL NOT
42 ENACT ANY ORDINANCE relating to the transportation, possession, carrying,

1 sale and use of firearms OR AMMUNITION in this state ~~shall not be in conflict~~
2 ~~with this chapter.~~

3 B. A political subdivision of this state shall not require the
4 licensing or registration of firearms or prohibit the ownership, purchase,
5 sale or transfer of firearms.

6 Sec. 3. Intent

7 The legislature intends to clarify existing law relating to the state's
8 preemption of firearms regulations in this state. This act applies to any
9 action or appeal that is pending on the effective date of this act.