

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-77
HOUSE BILL 622**

AN ACT TO PROVIDE THAT THE GENERAL ASSEMBLY DECLARE 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; TO PROVIDE THAT THE AUTHORITY TO BRING SUIT AGAINST ANY FIREARM OR AMMUNITION MARKETER, MANUFACTURER, DISTRIBUTOR, DEALER, SELLER, OR TRADE ASSOCIATION BY OR ON BEHALF OF ANY GOVERNMENTAL UNIT FOR REMEDIES RESULTING FROM OR RELATED TO THE LAWFUL DESIGN, MARKETING, MANUFACTURE, DISTRIBUTION, SALE, OR TRANSFER OF FIREARMS OR AMMUNITION TO THE PUBLIC IS RESERVED EXCLUSIVELY TO THE STATE; AND TO PROVIDE THAT ANY SUCH ACTION SHALL BE BROUGHT BY THE ATTORNEY GENERAL ON BEHALF OF THE STATE.

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.

(a1) 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. This subsection applies only to causes of action brought under subsection (g) of this section.

(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 ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.

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

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

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

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

(g) The authority to bring suit and the right to recover against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on behalf of any governmental unit, created by or pursuant to an act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, injunctive relief, or any other remedy resulting from or relating to the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved exclusively to the State. Any action brought by the State pursuant to this section shall be brought by the Attorney General on behalf of the State. This section shall not prohibit a political subdivision or local governmental unit from bringing an action against a firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach of contract or warranty for defect of materials or workmanship as to firearms or ammunition purchased by the political subdivision or local governmental unit."

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

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

In the General Assembly read three times and ratified this the 8th day of August, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:24 p.m. this 15th day of August, 2002