

Regular Session, 1999

HOUSE BILL NO. 1639

BY REPRESENTATIVES SCALISE, MCMAINS, DEWITT, DOWNER,
BRUNEAU, CLARKSON, DIEZ, FLAVIN, HEBERT, HILL,
HOPKINS, JOHNS, PERKINS, SHAW, STELLY, WIGGINS,
BARTON, BOWLER, CRANE, FONTENOT, FRUGE, KENNEY,
LANCASTER, MCCALLUM, MCDONALD, POWELL,
THOMPSON, THORNHILL, TRICHE, VITTER, WALSWORTH,
AND WRIGHT AND SENATORS DARDENNE, EWING,
HAINKEL, BARHAM, SCHEDLER, ELLINGTON, HOLLIS,
MALONE, ROMERO, SIRACUSA, SMITH, AND THOMAS

LIABILITY/CIVIL: Provides with respect to civil liability for damages
caused by use of a firearm

1 AN ACT

2 To enact R.S. 9:2800.60, relative to civil liability; to provide with respect to
3 liability for manufacturers and sellers of firearms; and to provide for
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:2800.60 is hereby enacted to read as follows:

7 §2800.60. Liability of manufacturers and sellers of firearms

8 A. The legislature finds and declares that the Louisiana
9 Products Liability Act was not designed to impose liability on a
10 manufacturer or seller for the improper use of a properly designed and
11 manufactured product. The legislature further finds and declares that
12 the manufacture and sale of firearms and ammunition by manufacturers
13 and dealers, duly licensed by the appropriate federal and state

1 authorities, is lawful activity and is not unreasonably dangerous and
2 further, that the unlawful or improper use of firearms and ammunition,
3 rather than their lawful manufacture, distribution, or sale, is the
4 proximate cause of deaths, injuries, property damage, and other losses
5 arising from their unlawful or improper use.

6 B. Notwithstanding any other provision of law to the contrary,
7 no manufacturer or seller of a firearm who has transferred that firearm
8 in compliance with federal and state law shall incur any liability for
9 any action of any person who uses a firearm in a manner which is
10 unlawful, negligent, improper, or otherwise inconsistent with the
11 purposes for which it was intended.

12 C. Notwithstanding any provision of law to the contrary, no
13 manufacturer or seller of a firearm shall incur any liability because a
14 firearm was sold without any device which would: (1) make the firearm
15 useable only by the lawful owner or authorized user of the firearm; (2)
16 indicate to users that a cartridge is in the chamber of the firearm; or (3)
17 prevent the firearm from firing if the ammunition magazine is removed.
18 The failure of a manufacturer or seller to insure that a firearm has a
19 device which would: (1) make the firearm useable only by the lawful
20 owner or authorized user of the firearm; (2) indicate to users that a
21 cartridge is in the chamber of the firearm; or (3) prevent the firearm
22 from firing if the ammunition magazine is removed, shall not make the
23 firearm unreasonably dangerous.

24 D.(1) For the purposes of this Chapter, the potential of a firearm
25 to cause serious injury, damage, or death as a result of normal function

1 does not constitute a firearm malfunction due to defect in design or
2 manufacture.

3 (2) A firearm may not be deemed defective in design or
4 manufacture on the basis of its potential to cause serious bodily injury,
5 property damage, or death when discharged legally or illegally.

6 E. Notwithstanding any provision of law to the contrary, no
7 manufacturer or seller of a firearm shall incur any liability for failing
8 to warn users of the risk that: (1) a firearm has the potential to cause
9 serious bodily injury, property damage, or death when discharged
10 legally or illegally; (2) an unauthorized person could gain access to the
11 firearm; (3) a cartridge may be in the chamber of the firearm; or (4) the
12 firearm is capable of being fired even with the ammunition magazine
13 removed.

14 Section 2. The provisions of this Section are intended to clarify the
15 provisions of the Louisiana Products Liability Act, and therefore are remedial
16 in nature and shall apply to all actions or claims pending on or filed after the
17 effective date of this Act.

18 Section 3. This Act shall become effective upon signature by the
19 governor or, if not signed by the governor, upon expiration of the time for bills
20 to become law without signature by the governor, as provided in Article III,
21 Section 18 of the Constitution of Louisiana. If vetoed by the governor and
22 subsequently approved by the legislature, this Act shall become effective on
23 the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Scalise, et al.

HB No. 1639

Present law (Louisiana Products Liability Act, R.S. 9:2800 et seq.) provides for exclusive theories of liability for manufacturers for damage caused by their products. Under present law, the manufacturer of a product shall be liable to a claimant for damage proximately caused by a characteristic of the product that renders the product unreasonably dangerous when such damage arose from a reasonably anticipated use of the product by the claimant or another person or entity.

Proposed law declares the following legislative findings:

- (1) That the Louisiana Products Liability Act was not designed to impose liability on a manufacturer or seller for improper use of a properly designed and manufactured product.
- (2) That the manufacture and sale of firearms and ammunition by manufacturers and dealers duly licensed by the appropriate federal and state authorities is lawful activity and is not unreasonably dangerous, and finds that the unlawful or improper use of firearms and ammunition, rather than their lawful manufacture, distribution, or sale, is the proximate cause of deaths, injuries, property damage, and other losses arising from their unlawful or improper use.

Proposed law provides that no manufacturer or seller of a firearm who has transferred that firearm in compliance with federal and state law shall incur any liability for any action of any person who uses a firearm in a manner which is unlawful, negligent, improper, or otherwise inconsistent with the purposes for which it was intended.

Proposed law provides that no manufacturer or seller of a firearm shall incur any liability because a firearm was sold without any device which would: (1) make the firearm useable only by the lawful owner or authorized user of the firearm; (2) indicate to users that a cartridge is in the chamber of the firearm; or (3) prevent the firearm from firing if the ammunition magazine is removed.

Proposed law provides that the failure of a manufacturer or seller to insure that a firearm has a device which would: (1) make the firearm useable only by the lawful owner or authorized user of the firearm; (2) indicate to users that a cartridge is in the chamber of the firearm; or (3) prevent the firearm from firing if the ammunition magazine is removed shall not make the firearm unreasonably dangerous.

Proposed law provides that the potential of a firearm to cause serious injury, damage, or death as a result of normal function does not constitute a firearm malfunction due to defect in design or manufacture.

Proposed law provides that a firearm may not be deemed defective in design or manufacture on the basis of its potential to cause serious bodily injury, property damage, or death when discharged legally or illegally.

Proposed law provides that no manufacturer or seller of a firearm shall incur any liability for failing to warn users of the risk that:

- (1) A firearm has the potential to cause serious bodily injury, property damage, or death when discharged legally or illegally.
- (2) An unauthorized person could gain access to the firearm.
- (3) A cartridge may be in the chamber of the firearm.
- (4) The firearm is capable of being fired even with the ammunition magazine removed.

Proposed law is intended to clarify the provisions of the Louisiana Products Liability Act, and therefore are remedial in nature and shall apply to all actions or claims pending on or filed after the effective date of this Act.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 9:2800.60)

Summary of Amendments Adopted by House

Committee Amendment Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Provides that the protection of manufacturers and sellers from improper or illegal actions by other persons is limited to manufacturers and sellers who have transferred that firearm in compliance with federal and state law.