

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, WRIGHT, BRUNEAU, DONELON, FLAVIN, FRITH, JENKINS, KENNARD, MCMAINS, AND SCHNEIDER AND SENATORS DARDENNE, EWING, HAINKEL, BARHAM, SCHEDLER, ELLINGTON, HOLLIS, MALONE, ROMERO, SIRACUSA, SMITH, THOMAS, BEAN, BRANCH, AND DEAN

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§2800.60. Liability of manufacturers and sellers of firearms

A. The legislature finds and declares that the Louisiana Products Liability Act was not designed to impose liability on a manufacturer or seller for the improper use of a properly designed and manufactured product. The legislature further finds and declares 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.

B. No firearm manufacturer or seller shall be liable for any injury, damage, or death resulting from any shooting injury by any other person unless the claimant proves and shows that such injury, damage, or death was proximately caused by the unreasonably

dangerous construction or composition of the product as provided in R.S. 9:2800.55.

C. Notwithstanding any other provision of law to the contrary, 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, or otherwise inconsistent with the purposes for which it was intended.

D. 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, unless such device is required by federal or state statute or regulation.

E.(1) For the purposes of this Chapter, 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.

(2) 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.

F. Notwithstanding any provision of law to the contrary, 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; or (4) the firearm is capable of being fired even with the ammunition magazine removed.

G. The provisions of this Section shall not apply to assault weapons manufactured in violation of 18 U.S.C. §922(v).

Section 2. The provisions of this Section are 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.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____