

CONFERENCE COMMITTEE REPORT DIGEST

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

Digest of Bill as Finally Passed by the House

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 the Senate

Senate Floor Amendments to the Engrossed Bill.

1. Provided for application of proposed law to assault weapons.
2. Deleted legislative findings relative to the unlawful and improper use of firearms and ammunition.
3. Provided for liability of a firearm manufacturer or seller if the claimant proves that the injury, damage, or death was proximately caused by the unreasonably dangerous construction or composition,
4. Deleted provisions relative to liability for an action which is improper with the purposes for which the firearm was intended.
5. Deleted provisions relative to liability because a firearm is sold without specific devices.
6. Added provisions relative to federal and state statute or regulation.

Digest of Bill as Proposed by Conference Committee

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.

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, or otherwise inconsistent with the purposes for which it was intended.

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

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.

Proposed law does not apply to assault weapons manufactured in violation of

18 U.S.C. § 922 (v).

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

(Adds R.S. 9:2800.60)