

**SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION**

S.F. No. 5087

(SENATE AUTHORS: LATZ)

DATE
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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; civil law; creating a public nuisance cause of action for
1.3 certain conduct related to the sale, marketing, importing, distribution, and
1.4 manufacturing of firearms; proposing coding for new law in Minnesota Statutes,
1.5 chapter 604.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [604.22] CIVIL ACTION FOR PUBLIC NUISANCE BY FIREARM
1.8 INDUSTRY MEMBER.

1.9 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.10 the meanings given.

1.11 (b) "Firearm industry member" means a person engaged in the sale, manufacturing,
1.12 distribution, importing, or marketing of a firearm-related product.

1.13 (c) "Firearm-related product" means a product that meets any of the following conditions:

1.14 (1) was sold, made, distributed, or marketed in this state;

1.15 (2) was intended to be sold, made, distributed, or marketed in this state; or

1.16 (3) was possessed in this state, and it was reasonably foreseeable that the product would
1.17 be possessed or used in this state.

1.18 (d) "Firearm trafficker" means a person who acquires, transfers, or attempts to acquire
1.19 or transfer a firearm for purposes of unlawful commerce.

1.20 (e) "Product" means a firearm; ammunition; a firearm component, including unfinished
1.21 firearm frames or receivers; or a firearm accessory.

2.1 (f) "Public nuisance" means a condition which injures, endangers, or threatens to injure
 2.2 or endanger, or contributes to the injury or endangerment of the health, safety, peace, comfort,
 2.3 or convenience of others or otherwise constitutes a public nuisance under common law.

2.4 (g) "Reasonable controls" means reasonable procedures, safeguards, and business
 2.5 practices that are designed to:

2.6 (1) prevent the sale or distribution of a firearm-related product to a straw purchaser, a
 2.7 firearm trafficker, a person prohibited from possessing a firearm under state or federal law,
 2.8 or a person whom the firearm industry member has reasonable cause to believe is at
 2.9 substantial risk of using a firearm-related product to harm themselves or unlawfully harm
 2.10 another or of unlawfully possessing or using a firearm-related product;

2.11 (2) prevent the loss of a firearm-related product or theft of a firearm-related product
 2.12 from a firearm industry member;

2.13 (3) ensure that the firearm industry member complies with all provisions of state and
 2.14 federal law and does not otherwise promote the unlawful manufacture, sale, possession,
 2.15 marketing, or use of a firearm-related product; and

2.16 (4) ensure that the firearm industry member does not engage in an act or practice in
 2.17 violation of section 325D.44 or 325F.69.

2.18 (h) "Straw purchaser" means an individual who conceals or intends to conceal from a
 2.19 person that the purchase of a firearm-related product is being made on behalf of a third
 2.20 party. Straw purchaser does not include a bona fide gift to a person who is not prohibited
 2.21 by law from possessing or receiving a firearm-related product. For purposes of this section,
 2.22 a gift to a person is not a bona fide gift if the person has offered or given the purchaser a
 2.23 service or thing of value to acquire the firearm-related product for the person.

2.24 Subd. 2. **Nuisance prohibited.** A firearm industry member, by conduct unlawful in
 2.25 itself or unreasonable under all the circumstances, may not knowingly or recklessly create,
 2.26 maintain, or contribute to a public nuisance through the sale, manufacturing, importing, or
 2.27 marketing of a firearm-related product.

2.28 Subd. 3. **Reasonable controls required.** A firearm industry member shall establish and
 2.29 implement reasonable controls regarding the manufacture, sale, distribution, use, and
 2.30 marketing of the firearm industry member's firearm-related products.

2.31 Subd. 4. **Violations.** A violation of subdivision 2 or 3 is a public nuisance.

2.32 Subd. 5. **Proximate cause.** A firearm industry member's conduct constitutes a proximate
 2.33 cause of the public nuisance if the harm to the public is a reasonably foreseeable effect of

3.1 the conduct, notwithstanding any intervening actions, including criminal actions by third
3.2 parties.

3.3 Subd. 6. **Enforcement; attorney general.** Whenever it appears to the attorney general
3.4 that a firearm industry member has engaged in or is engaging in conduct in violation of this
3.5 section, the attorney general may commence an action to seek and obtain:

3.6 (1) an injunction prohibiting the firearm industry member from continuing the conduct
3.7 or engaging in the conduct or doing any acts in furtherance of the conduct;

3.8 (2) an order providing for abatement of the nuisance at the expense of the firearm industry
3.9 member;

3.10 (3) restitution;

3.11 (4) compensatory and punitive damages;

3.12 (5) reasonable attorney fees, filing fees, and reasonable costs of the action; or

3.13 (6) any other appropriate relief.

3.14 Subd. 7. **Private cause of action.** (a) A person that has been damaged as a result of a
3.15 firearm industry member's acts or omissions in violation of this section may commence an
3.16 action to seek and obtain:

3.17 (1) injunctive relief;

3.18 (2) compensatory and punitive damages; and

3.19 (3) reasonable attorney fees, filing fees, and reasonable costs of the action.

3.20 (b) If a person commences an action under this subdivision, the person shall within five
3.21 days of filing the complaint notify the attorney general of the filing of the complaint and
3.22 provide the attorney general with a copy of the complaint and any other documents or
3.23 pleadings filed with the complaint.

3.24 Subd. 8. **No intent required.** To prevail in an action under this section, the party seeking
3.25 relief is not required to demonstrate that the firearm industry member acted with the intent
3.26 to engage in a public nuisance or otherwise cause harm to the public.

3.27 Subd. 9. **Construction.** (a) This section may not be construed or implied to limit or
3.28 impair in any way any of the following:

3.29 (1) the right of a person to pursue a legal action under any other law; or

3.30 (2) an obligation or requirement placed on a firearm industry member by any other law.

4.1 (b) This section must be construed and applied in a manner that is consistent with the
4.2 requirements of the Minnesota Constitution and the United States Constitution.

4.3 Subd. 10. **Other remedies.** Nothing in this section is intended to restrict or alter the
4.4 availability of an action for relief from or to remedy a public nuisance at common law.