STATE OF NEW YORK

8926--A

IN SENATE

August 19, 2020

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the dangers to safety and health and creation of a public nuisance cause by the sale, manufacturing, importing and marketing of firearms

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings and intent. The legislature hereby finds that the illegal use of firearms not only constitutes a public nuisance as declared in article 400 of the penal law, but that the effects of such nuisance poses specific harm to New Yorkers based largely on their zip code and certain immutable characteristics such as race and ethnicity. Illegal firearm violence has disproportionately affected urban neighborhoods in the state despite stringent state and local laws against the illegal possession of firearms while, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives statistics, 74% of firearms used in crimes in New York are purchased outside of New York. Thus, the legislature further finds that given the ease at which legal firearms flow into the illegal market, and given the specific harm illegal firearm violence causes certain New Yorkers, those responsible for the sale, manufacture, or marketing of firearms may be held liable for the public nuisance caused by such activities.

§ 2. The general business law is amended by adding a new article 39-dddd to read as follows:

ARTICLE 39-DDDD

SALE, MANUFACTURING, IMPORTING AND MARKETING OF FIREARMS

Section 898-a. Definitions.
898-b. Dangers to safety and health.
898-c. Public nuisance.
898-d. Enforcement.
898-e. Private right of action.

§ 898-a. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Deceptive arts or practices" shall have the same meaning as defined in article twenty-two-A of this chapter.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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2. "False advertising" shall have the same meaning as defined in article twenty-two-A of this chapter.

3. "Firearm" shall mean a firearm, rifle or shotgun, as defined in section 265.00 of the penal law.

4. "Gun industry member" shall mean a person, firm, corporation or association engaged in the sale, manufacturing, importing or marketing of firearms.

§ 898-b. Dangers to safety and health. No gun industry member shall create or maintain a condition which endangers safety or health through the sale, manufacturing, importing or marketing of firearms.

§ 898-c. Public nuisance. 1. A violation of this article that results in harm to the public shall hereby be declared to be a public nuisance.

2. The existence of a public nuisance shall not depend on whether the gun industry member acted for the purpose of causing harm to the public.

3. The acts or omissions of a gun industry member shall constitute the proximate cause of a public nuisance if the harm to the public was a reasonably foreseeable effect of such acts or omissions, notwithstanding any intervening actions, including but not limited to criminal actions by third parties.

4. In determining whether a nuisance exists, a court shall consider:

(a) any crimes committed in New York with firearms sold, manufactured or marketed by the gun industry member;

(b) the total number of firearms that the gun industry member manufactured or sold in the United States;

(c) the total number of firearms sold by the gun industry member in New York;

(d) the value of firearm-related products sold by the gun industry member in New York;

(e) the total number of firearms linked to criminal investigations in New York that are attributable to the gun industry member;

(f) the sale prices of firearms sold by the gun industry member;

(g) the connection with companies related to the gun industry member;

(h) the distribution methods and their possible effects on crimes in New York;

(i) the gun industry member's total revenue from the United States and New York markets;

(j) whether the gun industry member has engaged in deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service;

(k) whether the gun industry member has engaged in false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service; and

(l) any other acts or omissions by the gun industry member that create, contribute to or maintain public harm.

§ 898-d. Enforcement. The provisions of this article may be enforced by the attorney general in the name of the people of the state of New York, or by the town attorney, city corporation counsel, or other lawfully designated enforcement officer of a municipality or local government.

§ 898-e. Private right of action. Any person, firm, corporation or association that has been damaged as a result of a gun industry member's acts or omissions in violation of this article shall be entitled to bring an action for recovery of damages or to enforce this article.

§ 3. This act shall take effect immediately.