

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 2647

 By: Steagall

5
6 AS INTRODUCED

7 An Act relating to firearms; amending 21 O.S. 2021,
8 Section 1289.24a, which relates to the Oklahoma
9 Firearms Act of 1971; expanding scope of declaration
10 to include firearm accessories; defining terms;
11 prohibiting the filing of civil actions or special
12 proceedings under certain circumstances; establishing
13 procedures for courts to follow when certain motion
14 is filed; providing appeal rights; providing for the
15 award of costs and attorney fees; authorizing the
16 filing of civil actions or special proceedings;
17 requiring specificity when filing claims for relief;
18 and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1289.24a, is
16 amended to read as follows:

17 Section 1289.24a ~~1-~~ A. The State Legislature declares that the
18 lawful design, marketing, manufacturing, or sale of firearms,
19 firearm accessories, or ammunition to the public is not unreasonably
20 dangerous activity and does not constitute a nuisance.

21 ~~2-~~ B. As used in this section:

22 1. "Ammunition" means a fully assembled cartridge and all its
23 components including bullet, projectile, shot, cartridge case, wad,
24 primer, and propellant powder designed for use in a firearm;

1 2. "Dealer" means:

2 a. any person engaged in the business of selling
3 firearms, firearm accessories, or ammunition at
4 wholesale or retail,

5 b. any person engaged in the business of gunsmithing
6 including repairing firearms or making or fitting
7 special barrels, stocks, or trigger mechanisms to
8 firearms, or

9 c. any person who is a pawnbroker licensed by the federal
10 government to sell firearms. A dealer is not a
11 manufacturer, importer, exporter, or trade
12 association;

13 3. "Exporter" means a person engaged in foreign commerce of
14 firearms, firearm accessories, or ammunition for purposes of sale or
15 distribution outside the United States;

16 4. "Firearm" means a rifle, pistol or shotgun;

17 5. "Firearm accessory" means any component part of a firearm,
18 any device designed and intended to enable the wearing or carrying
19 of a firearm on one's person, or any device designed and intended to
20 be inserted into or affixed onto a firearm to enable, or improve or
21 enhance the functioning or capabilities of a firearm, including
22 without limitation firearm silencers or suppressors, and optics;

23 6. "Importer" means any person engaged in the business of
24 importing or bringing firearms, firearm accessories, or ammunition

1 into the United States for purposes of sale or distribution within
2 the United States;

3 7. "Manufacturer" means a person who is engaged in the business
4 of manufacturing and is licensed as a manufacturer pursuant to the
5 provisions of Chapter 44 of Title 18 of the United States Code, or
6 who manufactures firearm accessories or components of ammunition;

7 8. "Person" means any individual, corporation, business trust,
8 estate, trust, partnership, limited liability company, association,
9 governmental entity or body politic or other organization; and

10 9. "Trade association" means a corporation, unincorporated
11 association, federation, business league, or professional or
12 business organization not organized or operated for profit that
13 meets all of the following criteria:

14 a. no part of its net earnings inures to the benefit of
15 any private shareholder or individual,

16 b. it is an organization described in Section 501(c)(6)
17 of Title 26 of the United States Code and exempt from
18 tax under Section 501(a) of Title 26 of the United
19 States Code, and

20 c. two or more of its members are manufacturers,
21 distributors, dealers, importers, or exporters of
22 firearms, firearm accessories, or ammunition.

23 C. The authority to bring suit and right to recover against any
24 firearms or ammunition manufacturer, trade association, or dealer by

1 or on behalf of any governmental unit created by or pursuant to an
2 act of the Legislature or the Constitution, or any department,
3 agency, or authority thereof, for damages, abatement, or injunctive
4 relief resulting from or relating to the lawful design,
5 manufacturing, marketing, or sale of firearms, firearm accessories,
6 or ammunition to the public shall be reserved exclusively to the
7 state. This paragraph shall not prohibit a political subdivision or
8 local government authority from bringing an action against a
9 firearms or ammunition manufacturer or dealer for breach of contract
10 or warranty as to firearms or ammunition purchased by the political
11 subdivision or local government authority. ~~This bill shall not be~~
12 ~~construed to prohibit an individual from bringing a cause of action~~
13 ~~based upon an existing recognized theory of law.~~

14 D. A person may not bring, file, or maintain any civil action
15 or special proceeding against a firearm, firearm accessory, or
16 ammunition manufacturer, distributor, dealer, importer, exporter, or
17 trade association, or the owners, shareholders, directors, and
18 employees of any such entity, for any of the following:

19 1. Recovery of damages, punitive damages, restitution, fines,
20 penalties, injunctive or declaratory relief or other remedy relating
21 to the design, manufacture, distribution, advertising, marketing, or
22 sale of a firearm, firearm accessory, or ammunition;

23 2. Recovery of damages, punitive damages, restitution, fines,
24 penalties, injunctive or declaratory relief or other remedy

1 resulting from the criminal or unlawful use of a firearm, firearm
2 accessory, or ammunition by a third party; or

3 3. Recovery of damages, punitive damages, restitution, fines,
4 penalties, injunctive or declaratory relief or other remedy based on
5 any legal theory that the marketing or advertising of a firearm,
6 firearm accessories, or ammunition was the cause of any personal
7 injury, death, or property damage or caused or contributed to the
8 creation or maintaining of a public nuisance.

9 E. 1. If a defendant files a motion asserting that a plaintiff
10 has filed a civil action or special proceeding prohibited under this
11 section, the court shall stay all proceedings including discovery
12 and decide the motion based on the pleadings. If the court
13 determines the plaintiff has filed a civil action or special
14 proceeding asserting any cause of action or claim prohibited under
15 this section, then such finding shall constitute conclusive evidence
16 that the civil action or special proceeding is prohibited by law and
17 the court shall immediately dismiss the civil action or special
18 proceeding or dismiss with prejudice all prohibited causes of action
19 and claims set forth in the complaint. An order denying such
20 motion, in whole or in part, may be appealed.

21 2. If a civil action or special proceeding, or any cause of
22 action or claim is dismissed pursuant to the provisions of this
23 subsection, the court shall award to the defendant costs and
24 reasonable attorney fees incurred in defending against the civil

1 action or special proceeding or any dismissed cause of action or
2 claim. In cases that were pending on the date of the enactment of
3 the provisions of this section, the court shall only award attorney
4 fees as of the date the defendant notifies the plaintiff in writing
5 that this section has gone into effect and requests that the
6 plaintiff voluntarily dismiss the civil action or special
7 proceeding, or all prohibited causes of action or claims.

8 F. Nothing in this section prohibits a person from filing,
9 bringing, or maintaining a civil action or special proceeding
10 against a firearm, firearm accessory, or ammunition manufacturer,
11 distributor, dealer, importer, exporter, or trade association for
12 any of the following:

13 1. Breach of contract or warranty concerning firearms, firearm
14 accessories, or ammunition purchased by a person;

15 2. Death, physical injuries, or property damage resulting
16 directly from a defect in design or manufacture of the product when
17 the product is used as designed and intended or in a reasonably
18 foreseeable manner; except that, where the discharge of the firearm
19 or ammunition was caused by a volitional act that constituted an
20 unlawful or criminal offense, regardless of whether the person
21 discharging the firearm or ammunition was criminally charged,
22 prosecuted or convicted or charged as a juvenile, then such
23 volitional act shall be considered the sole proximate cause of any
24 resulting death, personal injuries, or property damage;

1 3. Death or physical injuries resulting directly from the sale
2 of a firearm, firearm accessory, or ammunition in violation of a
3 federal or state law or regulation specifically and exclusively
4 regulating the sale of firearms, firearm accessories, or ammunition;
5 or

6 4. A civil action or special proceeding against a dealer for
7 death or physical injuries resulting directly from the negligent
8 entrustment by the dealer of a firearm or ammunition for use by
9 another person when the dealer knows, or reasonably should know, the
10 person to whom the firearm or ammunition is supplied is likely to,
11 and does in fact, use the product in a manner involving unreasonable
12 risk of physical injury to others.

13 G. In any civil action or special proceeding not barred by the
14 provisions of this section, all claims for relief contained in the
15 complaint must be plead with specificity.

16 SECTION 2. This act shall become effective November 1, 2023.

17
18 COMMITTEE REPORT BY: COMMITTEE ON STATE POWERS, dated 03/01/2023 -
19 DO PASS.