

HB 114: DESTRUCTION OF THE STATE FIREARM INDUSTRY ACT

This dangerous [legislation](#) targets the heavily regulated members of the firearm industry with potential litigation intended to make it impossible to remain in business in New Mexico. This specific, aggressive targeting of the singular industry necessary for the citizens to exercise a constitutionally protected right is an abuse of government power. Weaponization of the civil justice system in this manner will create a vacuum into which unlicensed and unregulated persons and entities will likely step.

Bad actors in ANY industry who engage in unconscionable, unfair, or deceptive trade practices are already held to account by the state's existing Unfair Trade Practices Act. Federally licensed firearm manufacturers and retailers who violate gun laws commit federal felonies and face prison time, heavy fines, and revocation of their license by the ATF. *So why is HB 114 being filed?*

HB 114 creates new civil violations associated with "false advertising" and actions that "negatively impact public health, safety, or welfare" that apply only to the firearm industry. Activist attorneys general, district attorneys, and gun control organizations are explicitly authorized to litigate against members of the firearm industry and drive them out of business. **HB 114 provides a template for destruction that can and will be used against any industry disfavored by certain elected officials and progressive interest groups.**

In the interim joint legislative hearings leading up to the 2024 session, lawmakers repeatedly stated that they wanted to target UNLAWFUL manufacturers and sellers of ILLEGAL firearms and firearm products. HB 114 sweeps up LAWFUL AND LEGITIMATE firearm industry members in a web of subjective, vague civil law that applies only to them and no other industry.

Provisions:

- **Section 3 creates the unique crime of "falsely advertising" a firearm product, which is not the same as an unconscionable or unfair trade practice.** It is defined as advertising that is misleading in any material respect or that fails to reveal relevant facts. This could be applied to an industry member claiming a firearm is effective for home defense. Proponents of this legislation refuse to acknowledge that *any* firearm is useful for home or self-defense.

- **Section 5 creates a "harming the public" civil violation applicable only to the firearms industry.** This extremely broad provision states that a member of the firearms industry cannot knowingly or recklessly create or contribute to anything affecting any number of citizens that could "negatively impact public health, safety or welfare through the sale, manufacturing, making, importing, advertising or marketing of a firearm product." Of course, the proponents of this legislation believe *every legal action* by any member of the industry negatively impacts public safety. Conveniently, the Governor's recent public health orders addressing firearms establish the foundation for all outlandish claims under this section.

- **Section 6 establishes state requirements for practices and protocols that firearm industry members already have in place.** It requires all firearm industry members to implement controls and procedures to prevent theft, ensure compliance with state and federal laws, and stop straw purchases, criminal misuse of firearms, and suicide. It's unclear who the state would designate to verify these are in place, or whether compliance would be left to the courts to determine.

- **Section 7 authorizes the Attorney General or a district attorney to bring an action against any member of the firearm industry alleging violations (or potential violations) of these new, vague provisions of law.** Specifies that each violation associated with false advertising is punishable by a civil penalty up to \$1,000. If other violations are found to be willful, each violation is punishable by a civil penalty of up to \$5,000.

This section also authorizes any person "likely to be harmed" by the actions of a firearm industry member to request equitable relief from a court. No evidence of actual damages is required. Any person who is "harmed" by a firearm industry member may file suit for punitive, equitable, or compensatory damages, including for pain and suffering. There are no award limits. The court is required to award attorney fees and court costs to any plaintiff who prevails. There is no similar provision for any member of the firearm industry who prevails as a defendant in one of these civil proceedings, encouraging fishing expeditions by activist litigators. Class action lawsuits against firearm industry members are promoted. Significantly, plaintiffs are not required to show that firearm industry defendants intended to cause harm or damage in order to prevail.

Take Action:

Please contact your State Representative today and URGE them to OPPOSE this direct assault on you and other members of the firearm industry. If allowed to pass, it will drive untold numbers of manufacturers and retailers out of business in the state before the courts eventually rule on the measure.

Those representatives likely to support such an attack usually argue that they are looking out for the average New Mexican. This bill does precisely the opposite. These people will not be able to afford to drive hours each direction to legally purchase a firearm from the few FFLs who may remain standing. Those who remain will be required to dramatically increase prices to pay for the litigation this bill forces upon them, making firearms and ammunition even more unattainable. Ultimately, this will undoubtedly lead these otherwise law-abiding New Mexicans to the black market to secure their means of protection, a natural right. Those who support this bill will be crushing and criminalizing the average New Mexican.

To contact your state representative, please click [here](#). Then under "Political Body" choose "House of Representatives." Finally, enter your address in the box provided.