

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1765

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2022

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1765.

As amended and reported by the committee, this bill establishes a statutory cause of action for public nuisance created or contributed to by the conduct of gun industry members that allows the Attorney General to address injuries to public health and safety and to seek relief including, but not limited to, abatement and other injunctive relief, damages, and attorneys' fees and costs.

These committee amendments require gun industry members to establish and implement reasonable controls for the sale, manufacture, distribution, importing, and marketing of gun-related products. The amended bill defines "reasonable controls" as reasonable procedures, safeguards, and business practices that are designed to:

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

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

(3) ensure that the gun industry member complies with all provisions of State and federal law and does not otherwise promote the unlawful sale, manufacture, distribution, importing, marketing, possession, or use of a gun-related product; and

(4) ensure that the gun industry member does not engage in an act or practice in violation of any of the regulatory provisions governing firearms set forth in chapters 39 and 58 of Title 2C of the New Jersey Criminal Code or engage in conduct that constitutes consumer fraud in violation of P.L.1960, c.39 (C.56:8-2) or any regulations promulgated thereunder.

The amendments also clarify that the Attorney General has the authority to require any person to file a statement or report under oath or be examined under oath when the Attorney General has reason to believe that a gun industry member has violated the law. As

introduced, the bill only required gun industry members to file a statement, report, or be examined under oath.

Finally, the amendments allow the Attorney General to establish or designate within the Department of Law and Public Safety (DLPS) a unit, bureau, office, or division to exercise all functions, powers, and duties of the Attorney General established under the bill's provisions and which may perform such other functions, powers, and duties vested in the DLPS as the Attorney General deems appropriate.

As amended, this bill is identical to Senate No. 1893 (1R).

This bill was prefiled for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

(1) Require gun industry members to establish and implement reasonable controls for the sale, manufacture, distribution, importing, and marketing of gun-related products. The bill defines "reasonable controls" as reasonable procedures, safeguards, and business practices designed to:

(a) prevent the sale or distribution of a gun-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under State or federal law, or a person who the gun industry member has reasonable cause to believe is at substantial risk of using a gun-related product to harm themselves or unlawfully harm another or of unlawfully possessing or using a gun-related product;

(b) prevent the loss of a gun-related product or theft of a gun-related product from a gun industry member;

(c) ensure that the gun industry member complies with all provisions of State and federal law and does not otherwise promote the unlawful sale, manufacture, distribution, importing, marketing, possession, or use of a gun-related product; and

(d) ensure that the gun industry member does not engage in an act or practice in violation of any of the regulatory provisions governing firearms set forth in the New Jersey Criminal Code or engage in conduct that constitutes consumer fraud.

(2) Clarify that the Attorney General has the authority to require any person to file a statement or report under oath or be examined under oath when the Attorney General has reason to believe that a gun industry member has violated the law.

(3) Change the bill's definition of "gun industry member." The bill as introduced had defined the term as a person, corporation, or other entity or association engaged in the sale, manufacturing, distribution, importing or marketing of firearms, ammunition, ammunition magazines, or firearm accessories. Under the committee amendments, "gun industry member" is defined as a person engaged in the sale, manufacturing, distribution, importing or marketing of a gun-related

product, and any officer, agent, employee, or other person authorized to act on behalf of that person or who acts in active concert or participation with one or more such persons.

(4) Add new definitions of “gun-related product” and “person.”

Under the amendments, “gun-related product” means any firearm, ammunition, ammunition magazine, firearm component or part including, but not limited to, a firearm frame and a firearm receiver, or firearm accessory, which product was, or was intended to be, sold, manufactured, distributed, imported, or marketed in this State, or which product was possessed in this State and as to which it was reasonably foreseeable that the product would be possessed or used in this State.

The amendments define “person” as any natural person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association.