

# **Bill to hold gun manufacturers liable still has long way to go before becoming law**

by Briana Supardi – WRGB - June 9th 2021

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Add Art 39-DDDD §§898-a - 898-e, Gen Bus L

***A06762B / S07196 - Relates to the dangers to the safety and health of the public caused by the sale, manufacturing, importing and marketing of firearms and whether such activity constitutes a public nuisance.***

***Gun Industry Liability Law* has passed both Houses and is on its way to the Governor for his signature.**

According to Assemblywoman Pat Fahy, this legislation would be the first to bypass a 2005 federal statute that protects the gun industry from any civil liability by allowing individuals or groups to file civil lawsuits against gun manufacturers and sellers if they can demonstrate evidence of reckless business practice. (WRGB)

CAPITAL REGION, NY (WRGB) — The Gun Industry Liability bill is now on its way to the governor's desk after passing in the Assembly last night (June 8, 2021).

The goal of the bill is to disrupt the supply of illegal guns getting into New York from other states by holding gun manufacturers accountable for reckless business practices.

However, even with the governor's signature, state lawmakers expect the bill to be challenged in the courts by the gun industry and gun rights groups.

"A dealer does not have strong securities, they are not video surveilling their store, they are not doing a background check on employees," listed Assemblywoman Pat Fahy, D-Albany.

These are just some of the things that this legislation is looking to hold gun manufacturers and dealers accountable.

Fahy is one of the sponsors of the bill. She says she hopes this bill will curb violence by stopping firearms purchased legally in other states from getting into the hands of criminals in New York.

According to Fahy, this legislation would be the first to bypass a 2005 federal statute that protects the gun industry from any civil liability by allowing individuals or groups to file civil lawsuits against gun manufacturers and sellers if they can demonstrate evidence of reckless business practice.

"They must demonstrate that they created intendable risk of harm through their business practices, so it's a very high threshold, but we know there are a few bad actors," said Fahy.

And although the Senate and Assembly have passed the bill, the journey of this bill becoming law is far from over.

"The biggest hurdle is that it will be challenged in court," said Fahy. "We are not trying to go after individual owners, we are not trying to infringe on lawful possession of a gun, this is not a Second Amendment challenge, but we do expect that it will be challenged in the courts, so it is going to take a while."

Challenged by opposition groups like the New York State rifle and pistol association and the NRA.

"Anything that will make it more difficult to own a firearm, which this legislation is going to do, is a violation of my rights, your rights, everybody else's rights," said Tom King, Executive Director of the New York State Rifle and Pistol Association.

King says New York has passed a number of gun safety bills over the years that have had no impact on stopping the violence.

"It's a societal problem that gun laws aren't going to do anything to change," said King. "We need to educate people, we need to work on poverty, we need to work on inequality, we need to make sure that people understand that life has value."

Attorney Leslie Silva with Tully Rinckey PLLC says litigation on this legislation could take years before the state sees any impact.

"The Supreme Court has just taken its first gun safety law, 2nd amendment right issue since 2008 and 2010 now, so we are 11 years later before the first gun rights issue went before the Supreme Court, and it could be another 10 or 11 years before the next one gets to the Supreme Court," said Silva.

Silver says in addition to state and federal crossover, this legislation will have a criminal and civil crossover which can create challenges when filing a civil suit.

"It's going to be interesting to see how this is going to be challenged, on the state or federal level and how it's going to impact the penal code and the ability of states to make their own criminal law," said Silva.