

1 MOTION

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3 DRAFT Amendments to the “ALEC Consistency in Firearms  
4 Regulation Act”

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6 Ms. Tara Mica, *National Rifle Association*, motions to amend the “ALEC Consistency in  
7 Firearms Regulation Act” (1999) by striking and introducing the following:

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9 **Summary**

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11 This Act would prohibit local jurisdictions from independently enacting restrictions on  
12 the possession of firearms. This Act would also preempt the right of local jurisdictions to  
13 bring certain civil actions against firearms or ammunition manufacturers, trade  
14 associations, and dealers.

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16 **Model Legislation**

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18 {Title, enacting clause, etc.}

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20 **Section 1. {Title.}** This Act may be cited as the Consistency in Firearms Regulation Act.

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22 **Section 2. {Intent; Declaration}**

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24 The purpose of this section is to establish complete state control over regulation and  
25 policy pertaining to firearms, firearm accessories, and ammunition in order to ensure that  
26 such regulation and policy is applied uniformly throughout this state to each person  
27 subject to the state’s jurisdiction and to ensure protection of the right to keep and bear  
28 arms recognized by the Constitution of the United States [and of this State, if applicable].  
29 This section is to be liberally construed to effectuate its purpose. The (insert state body)  
30 declares that the lawful design, marketing, manufacture, or sale of firearms or  
31 ammunition to the public is not unreasonably dangerous activity and does not constitute a  
32 nuisance per se, and further finds that the unlawful use of firearms and ammunition,  
33 rather than their lawful design, marketing, manufacture, or sale, is the proximate cause of  
34 injuries arising from their unlawful use.

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36 **Section 3. {Definitions}**

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38 (A) As used in this Act:

39  
40 (1) “Ammunition” means fixed cartridge ammunition, shotgun shells, the  
41 individual components of fixed cartridge ammunition and shotgun shells,  
42 projectiles for muzzleloading firearms, and any propellant used in firearms or  
43 ammunition.  
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45 (2) “Firearm accessory” means a device specifically adapted to enable the  
46 wearing or carrying about one’s person, or the storage or mounting in or on a  
47 conveyance, of a firearm, or an attachment or device specifically adapted to be  
48 inserted into or affixed onto a firearm to enable, alter, or improve the functioning  
49 or capabilities of the firearm.

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51 (3) “Firearm” means a pistol, revolver, rifle, shotgun, machine gun, submachine  
52 gun, or black powder weapon which is designed to, capable of, or may be readily  
53 converted to expel a projectile by the action of an explosive.

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55 (4) “Person adversely affected” means, in addition to any person who otherwise  
56 has standing pursuant to the laws of the State to bring an action under this section,  
57 any person who:

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59 (a) Can legally possess a firearm under the laws of the State and the  
60 United States;

61  
62 (b) Owns, possesses, stores, transports, carries or transfers firearms,  
63 ammunition or ammunition components within the political subdivision in  
64 question or would do so but for the ordinance, resolution, rule or practice  
65 at issue; and

66  
67 (c) Is, or if present in the political subdivision in question would be,  
68 subject to the ordinance, resolution, rule or practice at issue, whether or  
69 not specific enforcement action has been initiated or threatened against  
70 such person; or

71  
72 (d) A membership organization the members of which include a person  
73 described in subparagraphs (a) through (c) of this Section and that is  
74 dedicated in whole or in part to protecting the legal, civil or constitution  
75 rights of its membership.

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77 (5) “Political subdivision” means a county, city, township, school district, or any  
78 other subunit of this state.

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80 (6) “Post-judgment liquidated damages.” A sum equal to three times the actual  
81 damages, reasonable attorney fees and costs incurred by a party who successfully  
82 brings or maintains an action described under Subsections (4)(D) and (E) of this  
83 Act.

84  
85 (7) “Prejudgment liquidated damages.” A sum equal to two times the actual  
86 damages, reasonable attorney fees and costs incurred by a party who brings or  
87 maintains an action described under Subsections (4)(D) and (E) of this Act.

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89 **Section 4. {State preemption of local firearms laws; Exceptions; Remedies for**  
90 **unlawful regulation.} Any political subdivision shall not impose special taxation on;**

91 ~~enact any law, ordinance or regulation pertaining to, or regulate in any other manner the~~  
92 ~~ownership, registration, purchase, sale, transfer, transportation, carrying, or possession of~~  
93 ~~handguns or other firearms, ammunition for handguns or other firearms, or components~~  
94 ~~of handguns or other firearms, except as otherwise provided in state or federal law.~~

95 (A) Except as otherwise provided in this section or as expressly authorized by a statute of  
96 this state, the regulation of all of the following is hereby declared to be the exclusive  
97 domain of the state:

98  
99 (1) Firearms, firearm accessories, and ammunition.

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101 (2) The ownership, possession, carrying, transportation, registration, transfer, and  
102 storage of firearms, firearm accessories, and ammunition.

103  
104 (3) Commerce in and taxation of firearms, firearm accessories, and ammunition.

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106 (4) Any other matter pertaining to firearms, firearm accessories, and ammunition.

107  
108 (B) An ordinance, rule, resolution, or policy adopted by a political subdivision of this  
109 state, or an official action -- including in any legislative, police power, or proprietary  
110 capacity -- taken by an employee or agent of such political subdivision in violation of this  
111 section is void.

112  
113 (C) This section shall not be construed to prevent any of the following:

114  
115 (1) A duly organized law enforcement agency of a political subdivision from  
116 promulgating and enforcing rules pertaining to firearms, firearm accessories, or  
117 ammunition issued to or used by peace officers in the course of their official  
118 duties.

119  
120 (2) An employer from regulating or prohibiting an employee's carrying or  
121 possession of firearms, firearm accessories, or ammunition during and in the  
122 course of the employee's official duties [except as provided in the jurisdiction's  
123 worker protection/parking lot law, if any].

124  
125 (3) A court or administrative law judge from hearing and resolving a case or  
126 controversy or issuing an opinion or order on a matter within its jurisdiction.

127  
128 (4) The enactment or enforcement of a generally applicable zoning or business  
129 ordinance that includes firearms businesses along with other businesses, provided  
130 that an ordinance designed or enforced to effectively restrict or prohibit the sale,  
131 purchase, transfer, manufacture, or display of firearms, firearm accessories, or  
132 ammunition that is otherwise lawful under the laws of this state is in conflict with  
133 this section and is void.

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135 (5) A political subdivision from enacting or enforcing rules of operation and use  
136 for any firearm range owned and operated by the political subdivision.

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(6) A political subdivision from enacting or enforcing ordinances pertaining to the reckless or negligent discharge of a firearm.

(7) A political subdivision from sponsoring or conducting any firearm-related competition or educational or cultural program and from enacting and enforcing rules for participation in or attendance at such program.

(D) A person adversely affected by any ordinance, resolution, rule, or practice promulgated or enforced in violation of Subsection (B) of this Section may file suit in an appropriate court for declarative and injunctive relief and for all actual and consequential damages attributable to the violation.

(E) Notwithstanding any other provision of law, a party who brings or maintains an action at law or in equity against a political subdivision that has regulated the ownership, possession, storage, carrying, transfer or transportation of firearms, firearm accessories, ammunition or ammunition components in violation of Subsection (B) of this Section shall be entitled to:

(1) Reimbursement of actual damages and reasonable attorney's fees and costs incurred if, within 30 days of commencement of the action but prior to a final determination by a court in favor of either party, the political subdivision rescinds or repeals the ordinance, resolution, rule or practice at issue in the action.

(2) Prejudgment liquidated damages if, after the expiration of the 30-day period in subparagraph (1) but prior to a final determination by a court in favor of either party, the political subdivision rescinds or repeals the ordinance, resolution, rule or practice at issue in the action.

(3) Post-judgment liquidated damages upon a final determination by a court in favor of the party who brings or maintains the action.

**Section 5. {State preemption of local suits pertaining to firearms or ammunition}**

The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association, or dealer by or on behalf of any governmental unit created by or pursuant to an Act of the (insert name of state legislature) or the constitution, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public shall be reserved exclusively to the state. Furthermore, no action against any firearms or ammunition manufacturer, trade association, or dealer shall be brought without the authorization of the (insert name of legislature) by adoption of a concurrent resolution or by enactment of a law. This paragraph shall not prohibit a political subdivision or local government authority from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the political subdivision or local government authority. This paragraph shall not prohibit actions for injuries

183 resulting from a firearm malfunction due to defects in design or manufacture.

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185 **Section 6. {Applicability}** Section 4 of this Act applies to an ordinance, rule, resolution  
186 or policy adopted by a political subdivision of this state or to official actions taken by an  
187 employee or agent of such political subdivision, prior to or on or after the effective date  
188 of this Act. The remedies prescribed under Section 4 of this Act shall take effect 90 days  
189 after the enactment date of this Act to provide political subdivisions an opportunity to  
190 come into compliance with the Act's provisions. Section 5 of t[~~F~~]his Act shall apply to  
191 any action pending on or brought on or after the date this Act becomes effective.

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193 **Section 7. {Severability clause.}**

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195 **Section 8. {Repealer clause.}**

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197 **Section 9. {Effective date.}**



COMMON CAUSE  
Holding Power Accountable