

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2340

2001 SENATE JUDICIARY

SB 2340

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2340

Senate Judiciary Committee

Conference Committee

Hearing Date February 7th, 2001

Tape Number	Side A	Side B	Meter #
1	x	x	32-end/0-6.1
Committee Clerk Signature			

Minutes: **Senator Watne** opened the hearing on SB 2340: A BILL FOR AN ACT TO LIMIT THE LIABILITY RESULTING FROM THE MANUFACTURE, DISTRIBUTION AND SALE OF FIREARMS.

**Senator Watne**, the prime sponsor of SB 2340 representing district 15. This bill provides for immunity for those who sell firearms with in the law. So if someone busy a fireman from a manufacture, distributor and salesman they will not be implemented.

**Senator Lyson**, if there is a defect in the firearm. Is that covered?

**Senator Traynor**, section 4 covers that.

**Senator Nelson**, how many manufacturers are in ND? We have a product liability law, why the bill?

**Senator Trenbeath**, looks like we're attempting to do is, you can't sue the manufacturer just because it's a gun.

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Senate Judiciary Committee

Bill/Resolution Number SB ~~2304~~ 2340

Hearing Date February 7th, 2001

**Rick Jorgenson**, a North Dakota Hunter Education instructor, testifies in support of SB 2340.

(testimony attached).

**Senator Nelson**, is this type of legislation in the agenda?

**Rick Jorgenson**, I don't know.

**Senator Nelson**, this bill will protect all of the gunsmiths.

**Rich Jorgenson**, section 4 covers this. Product liability laws still apply.

**Senator Lyson**, if you sell me a weapon that is modified, would you send me a disclaimer?

**Rick Jorgenson**, I would. However, if I didn't you could come after me.

**Mike Donahue**, representing united sportsmen, supports the bill. This bill may help firearm cost.

**Leon Nesler**, hunter education instructor, this bill makes the user of the firearm responsible for negligence.

**Paul Kreary**, cass county wildlife club, goes on record in support of the bill.

**Senator Trenbeath**, dealing with negligence and strict liability, and this bill separates the two. Relieves the manufacturer from responsibility.

**Rick Jorgenson**, this bill protects individuals.

**Senator Traynor**, are the ND shooters association a group associated with section 3 in the bill.

**Rick Jorgenson**, I am not aware of them.

**Senator Traynor**, can you get the answer?

**Senator Traynor** closed the hearing on SB 2340.

**MOTION WAS MADE BY SENATOR TRENBEATH TO AMEND LINE 11 TO ADD CODES. SECONDED BY SENATOR WATNE. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SECOND MOTION WAS MADE BY SENATOR**

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Senate Judiciary Committee

Bill/Resolution Number SB ~~2304~~ 2340

Hearing Date February 7th, 2001

**TRENBEATH TO DO PASS AS AMENDED, SECONDED BY SENATOR WATNE.**

**VOTE INDICATED 5 YEAS, 1 NAYS, AND 1 ABSENT AND NOT VOTING. SENATOR**

**TRAYNOR VOLUNTEERED TO CARRY THE BILL.**



meter #50.8 - End  
TAPE 2

Date: 2/7  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2340

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Trenbeath Seconded By Watne

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.		
Watne, D. Vice Chairman	X		Nelson, C.	X	X
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 5 No 1

Absent 1

Floor Assignment Traynor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
February 8, 2001 1:28 p.m.

Module No: SR-23-2740  
Carrier: Traynor  
Insert LC: 10353.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SB 2340: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2340 was placed on the Sixth order on the calendar.

Page 1, line 11, after "Code" insert ", or amendments thereto,"

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2340

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2340

House Judiciary Committee

Conference Committee

Hearing Date 03-07-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		01 to 1889
Committee Clerk Signature <i>Jan Deew</i>			

Minutes: Vice Chr Kretschmar opened the hearing on SB 2340. A bill to limit the liability resulting from the manufacture, distribution and sale of firearms.

Rick Jorgenson: resident of North Dakota (see attached testimony).

Rep Delmore: Do you work with your consumers with the issue of safety locks on guns in the homes with children.

Rick Jorgenson: I teach firearm safety and we do teach gun safety, but this bill relates to the sale of firearms.

Rep Klemm: Section four of this bill sets out a lot of things and one is that liability does not apply. Have there been instances where someone has been held liable.

Rick Jorgenson: I don't believe there have been success, but there has been attempts. Goes on to give an example.

Rep Klemm: On line ten, who are we talking about.

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House Judiciary Committee

Bill/Resolution Number SB 2340

Hearing Date 03-07-01

Rick Jorgenson: The bill was drafted in that area to defend those associations like the North Dakota Shooter Association. Associations who promote shooting sports around the state.

Rep Eckre: Do you sell fire arms.

Rick Jorgenson: No.

Rep Eckre: Does that mean with a federal fire arm permit they can sell.

Rick Jorgenson: No.

Rep Eckre: liability insurance has gotten very high, have the prices of guns gone up.

Rick Jorgenson: This will not only effect the purchaser of gun it will also effect people with home owners policies.

Rep Mahoney: Section four leaves in all that is appropriate, but you are getting at is the prospect of someone using that product wrongfully and then wanting to go back and claim that they are liable.

Rick Jorgenson: That is the essence of the bill.

Vice Chr Kretschmar: Thank you for appearing before the committee.

Carol Two Eagles: This bill asks people to read other people's mind. In 1880's in Scotland a murder was committed with a blunderbuss, the man was charged separate from a gun. The man was found innocent and the gun was found guilty. Spoke in opposition.

Vic Chr Kretschmar: If there are no questions, thank you for appearing.

Eric Pueppke: President of North Dakota Shooting Sports Association, (see attached testimony).

Rep Klemin: Are you in retail.

Eric Pueppke: No, I am not.

Rep Maragos: Would this protect you if you sold an improper gun.

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House Judiciary Committee

Bill/Resolution Number SB 2340

Hearing Date 03-07-01

Eric Pueppke: I would say not.

Rep Klemin: Do you have to have liability insurance in a casual sale.

Eric Pueppke: Just own owners insurance, that would cover something like that.

Rep Klemin: You don't have any increase in your home owners insurance because you might have a casual sale.

Eric Pueppke: Well no.

Rep Mahoney: Have you participated in those cowboy shoot out competitions.

Eric Pueppke: I have not, I shoot pistol.

Vice Chr Kretschmar: Are there any other questions, seeing none, thank you for appearing.

Mike Donahue: North Dakota wildlife Federation and United Sportsmen of North Dakota, spoke in support of SB 2340.

Vice Chr Kretschmar: Are there any questions, thank you for appearing.

Leon Nesja: Mandan, teacher of Hunter Safety Courses, spoke in support of SB 2340.

Vice Chr Kretschmar: Are there any questions, thank you for appearing, is there any further testimony on SB 2340. Any in opposition, seeing none, we will close the hearing on SB 2340.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2340b

House Judiciary Committee

Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
Tape 1		x	4232 to 4602
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2340.

COMMITTEE ACTION

Chairman DeKrey: what are the wishes of the committee. Rep Delmore moved a DO PASS, seconded by Rep Onstad.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO PASS motion on SB 2340. The motion passes with a vote of 11 YES, 1 NO and 3 ABSENT. Carrier Rep Mahoney.

Date: 03-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB-2340

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep Delmore Seconded By Rep Onstad

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin		✓			
Rep John Mahoney	✓				
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 11 No 1

Absent 3

Floor Assignment Rep Mahoney

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 12, 2001 12:13 p.m.

**Module No: HR-42-5328**  
**Carrier: Mahoney**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2340, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (11 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2340 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2340

## INTRODUCTION

My name is Richard Jorgenson of 4931 81<sup>st</sup> Ave, NE, Devils Lake, ND 58301-9634. I was born and raised in Devils Lake, ND. My wife Connie teaches at the North Dakota State School for the Deaf in Devils Lake, ND. I own and operate Winston Noble Adjustment Company in Devils Lake, ND, and I have been employed as an insurance claims adjuster in Devils Lake, ND, since 1974 at Winston Noble Adjustment.

I am a North Dakota Hunter Education instructor and have been teaching firearms safety to young people and adults in that capacity since 1988. I am currently president of the Lake Region Shooting Sports Association in Devils Lake, ND, and I am also executive officer of the North Dakota Shooting Sports Association.

I have been an active participant in the shooting sports in North Dakota most of my adult life, and I enjoy the hunting opportunities available to us in North Dakota. My wife is a competitive air pistol shooter and my son Travis has just returned to North Dakota to go to College at NDSU after a tour of 4 years with the army marksmanship unit as a shooter in the International Pistol Disciplines.

## LIMITED LIABILITY-FIREARMS

I am here to speak in favor of Senate Bill #2340 for a number of reasons.

First of all, I believe that our society is incorrect in its recently developed tendency to assign responsibility for evil and tragic acts to the implement involved in the commission of those acts or tragedies rather than to the user of that implement. This attitude has grown to the point where we have seen law suits against firearm manufacturers, distributors or sellers who have lawfully manufactured, distributed or sold a firearm that was later used by another party to injure or kill someone.

While these law suits have not found much favor in our courts, they have placed a tremendous burden on the firearm manufacturer, distributor or seller to defend against these law suits. While the defense has been successful, the economic cost has been substantial.

As you all know, there is substantial risk in going to court, even in those circumstances where the defense is strong and the plaintiff has little to advance his case. This risk has cast a shadow over those manufacturers, distributors and sellers. This Senate Bill #2340 will substantially remove that shadow.

Personally, I vehemently object to the theory that I, as a seller, should be held responsible for a firearm that I legally sold to another who then used it in a crime or in an accident to cause injury to someone else.

I believe that this bill formalizes the opinions and attitudes of North Dakota's citizens. I have been an owner and lawful user of firearms nearly all of my life, and I believe the same can be said for the majority of North Dakota citizens. I credit that responsible ownership and use of firearms to my development into a responsible adult. I've seen the responsible development in my children. I live in North Dakota in comfortable friendly terms with my neighbors on the issue of firearm ownership and use.

This Senate Bill does not remove any personal responsibility that I should have for a material defect in the firearm, about which I knew or that I might have caused. A firearms manufacturer, distributor or seller remains responsible under law for injury resulting from failure of a firearm to operate in its normal or usual manner because of some defect in manufacture or some modification by the seller.

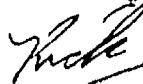
I believe that our legal system is fully equipped to provide recourse to any person who might be injured by a defective firearm.

Further, I believe this bill offers substantial relief to citizens and businessmen in North Dakota who are involved in the lawful sale distribution or manufacturer of a firearm. This legislation will do a lot to remove that cloud that they've been operating under for the past few years. It will further send a clear statement that the State of North Dakota does not sign on to any legal theory that the potential of a firearm to cause serious injury as a result of its normal function can somehow constitute a defective condition.

I hope each of you will provide your support for this legislation by recommending its passage and by doing your best to see it through the legislative process into law in North Dakota.

Thank you for your support.

Rick Jorgenson



My name is Eric Pueppke. I farm near Erie. I am the President of the North Dakota Shooting Sports Association. I have been involved in the shooting sports for most of my life, starting with a single shot .22 in pursuit of gophers, as many farm boys have. I participated in both the smallbore rifle and bullseye pistol programs at NDSU in the late 70's. For the past 7 years, I have been president of Gateway Pistol Club in Fargo. Currently, I am the North Dakota International Standard Pistol Champion, and am a member of the National Champion Air Pistol Team along with two of my fellow shooters from Gateway Pistol Club.

My family is also involved in competitive shooting. My wife Char competes with Air Pistol. My youngest son Matthew, age 9, competes with Air Pistol and Precision Air Rifle. Matthew was a member of the three man North Dakota team that won the National Jaycees Precision Air Rifle Championship in Atlanta, Georgia last fall and will be back there this June as a member of the North Dakota Champion 3 Position Air Rifle Team. My oldest son Christopher, age 12, recently won the North Dakota Junior Olympic Air Pistol Selection Match and has been invited to represent North Dakota at the National Junior Olympic Matches held in Colorado Springs in early April.

I am in favor of Senate Bill 2340. As a farmer, I work with tools and machines every day that if used improperly or carelessly, can cause injury. A firearm is to me, what a baseball bat is to Kirby Puckett... a tool. Both can and have been misused. I believe that one can no more place liability on a properly working firearm for a mishap, than one could on a properly working combine for injuring someone who put his arm where it shouldn't be. The farmers I talked to about SB 2340 were strongly in favor of it, as we must place liability on people and their actions, not on inanimate objects.

Liability lawsuits also lead to higher prices for products. I have seen this happen with machinery in the agriculture industry as well as the firearms industry. There are many reasons that manufacturers have to increase prices and I don't think that having to deal with unjust lawsuits should be one of them.

SB 2340 protects me as an individual when I sell a properly manufactured, and properly working firearm to another person. Improperly manufactured and improperly working firearms, as well as careless or malicious people will be held liable as they should be.

Vote yes on SB 2340.

Sincerely,

Eric Pueppke  
President, North Dakota Shooting Sports Association

## INTRODUCTION

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Pg 2

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I believe that our legal system is fully equipped to provide recourse to any person who might be injured by a defective firearm.

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I hope each of you will provide your support for this legislation by recommending its passage and by doing your best to see it through the legislative process into law in North Dakota.

Thank you for your support.

Rick Jorgenson

A handwritten signature in black ink, appearing to read "Rick Jorgenson", with a long horizontal flourish extending to the right.