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A Foreign Affair ***Contracting for U.S. Military and Law Enforcement Firearms***

On July 21, 2005, Senate Majority Leader Bill Frist (R-TN) expressed his intent to bring to the floor of the U.S. Senate legislation to shield firearm manufacturers from civil liability (S. 397). His statement included the assertion that failure to pass the bill would result in U.S. government military contracts going to “foreign manufacturers.” In his warning, Frist focused on supposed U.S. manufacturer Beretta:

We will also be considering gun liability legislation before we leave. Given the profusion of litigation, the Department of Defense faces the very real prospect of outsourcing sidearms for our soldiers to foreign manufacturers. ***Let me repeat, given the amount, the profusion of litigation, the Department of Defense faces the real prospect of having to outsource sidearms for our soldiers to foreign manufacturers.*** [emphasis added] The Baretta [sic] Corporation, for instance, makes the standard sidearm for the U.S. Armed Forces. They have the long-term contracts to supply these pistols to our forces in Iraq. Recently, the company had this to say: ‘The decision of the D.C. Court of Appeals has the likelihood of bankrupting, not only Baretta [sic] U.S.A., but every maker of semiautomatic pistols and rifles since 1991.’ Without this legislation, it is possible the American manufacturers of legal firearms will be faced with the real prospect of going out of business, ending a critical source of supply for our Armed Forces, our police, and our citizens.

Apparently, Senator Frist is unacquainted with Ugo Gussalli Beretta (center) and his sons, Franco (left) and Pietro (right), the principals in the Italian firearm manufacturer Beretta.



Franco, Ugo, and Pietro, the Berettas

According to Beretta promotional materials:

In the early 1900s Pietro (1870-1957) took the Company reins, introducing modernized manufacturing methods, many patents for mechanisms and simplified construction, consequently establishing **Beretta, the first Italian firearms maker**, [emphasis added] as one of the most modern firearms production facilities in the world. The modernization process was continued by the sons Giuseppe (1906-1993) and Carlo (1908-1984), securing the Company's multinational character with commercial and production activity in numerous European countries and the United States. These efforts created successful ventures in the military, law enforcement and private sectors.

Beretta is not alone. In fact, the bulk of contracts to arm America's military and law enforcement are already in the hands of much-feared "foreign manufacturers." If Senator Frist truly believes that the arming of America's defense agencies should not be in the hands of "foreign manufacturers," then he has many a sleepless night ahead of him.

The "largest pistol contract in law enforcement history" (with a potential value of \$26 million) with the U.S. Department of Homeland Security (DHS), Office of Immigration and Customs Enforcement (ICE), recently was awarded to Heckler & Koch GmbH, a company headquartered in Oberndorf, Germany.



Heckler & Koch headquarters in Oberndorf, Germany—a long way from New England's Gun Valley

Another major pistol contract, valued at \$23.7 million, also awarded by the Department of Homeland Security's ICE went to the Swiss company Schweizerische Industrie-Gesellschaft, or SIG. According to the SIGARMS website:

In 1853, Friedrich Peyer im Hof, Heinrich Moser and Conrad Neher began what they thought would become a successful wagon factory above the Rhine Falls in Switzerland. Little did they know then, that their company would become one of the world's most renowned manufacturers of small arms....The American market was a

vital part of SIG's business plan to continue to expand its market share and become an international leader in the small arms industry.

This year, the U.S. Army awarded a \$29.3 million contract to International Trading Establishment of Amman, Jordan, for equipment including AK-47 rifles, M4 shotguns, and 9mm handguns.

Another Army contract was an order for \$29 million worth of M16A4 rifles and M4 Carbines from FN Manufacturing, Inc., a Belgian company that is a member of The Herstal Group, which counts among its subsidiaries former American gun manufacturers Browning and Winchester. According to FN's website:

THE HERSTAL GROUP—The HERSTAL GROUP is known around the globe for the quality of its products. Under the brand name FN HERSTAL, Browning and Winchester, the Herstal Group designs, manufactures and distributes a full range of firearms and accessories for defense, law enforcement, hunting and marksmanship.

The Herstal Group has its headquarters in Liège, Belgium, the heart of Europe, and offices in nine other European countries, North America and Asia.

The Herstal Group includes Herstal, parent company and two main subsidiaries, FN HERSTAL, active in the Defense and Law Enforcement fields, and Browning / U.S. Repeating Arms Co., specializing in hunting /shooting marksmanship and outdoor sporting goods.

In fact, the bulk of U.S. government and law enforcement firearms contracts already go to foreign companies.

Some Crumbs for Homegrown Companies

Only one American company, Colt, appears to have a significant military contract. It supplies the M4 rifle, the standard Carbine for the U.S. Army and other services within the Department of Defense.

On June 3, 2005, Colt Defense Inc. filed a registration statement with the Securities and Exchange Commission (SEC) for an initial public offering. This move is part of a reorganization to establish Colt Defense as a legally separate company from Colt's Manufacturing, the company that makes guns for the civilian market.

In its registration statement, Colt Defense expresses no concern about the effect of private litigation that would be affected by S. 397 on the new company. In a section titled "Risks Related to Our Business," Colt lists 24 potential problems for the

company. Colt mentions lawsuits that might be generated by workers' exposure to hazardous substances or dangerous machinery or from the "mechanical failure of our rifles" (lawsuits that result from mechanical failure are not covered by S. 397). Environmental laws and regulations are also listed as a possible source of "significant costs and liabilities." But the only litigation expenses Colt references in its formal SEC filing are "legal costs associated with our lawsuits against Bushmaster and Heckler & Koch" for trademark and patent infringement.

Another Connecticut-headquartered manufacturer, Sturm, Ruger & Co., Inc., recently won a contract to supply 5,000 9mm pistols to the U.S. Army Tank-automotive and Armaments Command.

Tennessee-based Barrett Firearms Manufacturing, Inc. of Murfreesboro has a contract to supply the U.S. Army with 3,100 M107 long range 50 caliber anti-armor sniper rifles over a four-year period.

And finally, Massachusetts-based Smith & Wesson received its first federal contract in 15 years when it was awarded a contract worth \$1.2 million to supply 4,750 pistols to the U.S. Army Security Assistance Command. Reporting on the new Smith & Wesson contract, *TheStreet.com* observed, "Until now, three foreign companies have, strangely enough, dominated sales of high-end firearms to U.S. law enforcement officers and the military: Glock of Austria, Beretta of Italy and Sigarms of Switzerland."

The article appeared on the same day that Senator Frist issued his alarmist and uninformed remarks on the Senate floor.

Conclusion

There is simply no defensible reason to shield the gun industry from the tort laws that apply to virtually every other industry in America. Moreover, unlike every other consumer product manufacturer except tobacco, the gun industry is exempt from federal health and safety regulation. Therefore, proponents of S. 397 must resort to outrageous, untrue, and easily disproved claims about its effect on American gun companies.