

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H2/5/03 H2/7/03 H2/12/03

A Bill

Act 935 of 2003
HOUSE BILL 1326

5 By: Representatives Medley, Berry, Creekmore, Gillespie, Harris, Hathorn, House, Jacobs, Kenney, Key,
6 Matayo, Nichols, Ormond, Pace, Parks, Penix, Rosenbaum, Verkamp, Walters, *Bright, Norton, L. Evans,*
7 *Cowling*
8 By: Senators Laverty, Altes, *Glover*
9

For An Act To Be Entitled

12 AN ACT TO PROVIDE THAT FIREARM, NON-POWDER GUN
13 AND AMMUNITION MANUFACTURERS SHALL NOT BE LIABLE
14 FOR INJURIES CAUSED FROM THE INHERENT CAPABILITY
15 OF FIREARMS, NON-POWDER GUNS AND AMMUNITION TO
16 CAUSE INJURY; AND FOR OTHER PURPOSES.

Subtitle

19 AN ACT TO PROVIDE THAT FIREARM, NON-
20 POWDER GUN AND AMMUNITION MANUFACTURERS
21 SHALL NOT BE LIABLE FOR INJURIES CAUSED
22 FROM THE INHERENT CAPABILITY OF
23 FIREARMS, NON-POWDER GUNS AND AMMUNITION
24 TO CAUSE INJURY.

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29 SECTION 1. Proximate cause.

30 (a) In a product liability action, the actual discharge of a firearm,
31 non-powder gun or ammunition by a person shall be the proximate cause of
32 injury, damage, or death resulting from the use of the product, and not the
33 inherent capability of the firearm, non-powder gun or ammunition to cause
34 injury, damage, or death.

35 (b) The manufacturer's, importer's, or distributor's mere placement of
36 a firearm, non-powder gun or ammunition into the stream of commerce shall not



1 be conduct deemed sufficient to constitute the proximate cause of injury,
2 damage, or death resulting from a person's use of the firearm, non-powder gun
3 or ammunition.

4 (c) In a product liability action concerning the accidental discharge
5 of a firearm or non-powder gun, the manufacturer's, importer's, or
6 distributor's mere placement of the firearm or non-powder gun in the stream
7 of commerce shall not be conduct deemed sufficient to constitute proximate
8 cause, even if the accidental discharge of the firearm or non-powder gun is
9 found to be foreseeable.

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11 SECTION 2. Limitations on actions - Award of fees.

12 (a) A person or other public or private entity may not bring an action
13 in tort, other than a product liability action, against a firearms, non-
14 powder guns or ammunition manufacturer, importer, or dealer for any remedy
15 arising from physical or emotional injury, physical damage, or death caused
16 by the discharge of a firearm, non-powder gun or ammunition, unless the
17 action alleges that the physical or emotional injury, physical damage, or
18 death was caused by the intentional or negligent discharge of a firearm, non-
19 powder gun or ammunition by the manufacturer, importer, or dealer.

20 (b) A firearms, non-powder guns or ammunition manufacturer, importer,
21 or dealer shall not be held liable as a third party for the actions of
22 another person involving the use of a firearm, non-powder gun or ammunition
23 in any cause of action.

24 (c)(1) The court, upon the filing of a proper motion, shall dismiss
25 any action brought against a firearms, non-powder guns or ammunition
26 manufacturer, importer, or dealer that the court determines is prohibited
27 under subsection (a) or (b) of this section.

28 (2) Upon dismissal under this subsection (c), the court shall
29 award reasonable attorney fees, in addition to costs, to each named defendant
30 against whom the cause of action is dismissed.

31 (d)(1) Notwithstanding subsection (a) of this section, a firearms,
32 non-powder guns or ammunition manufacturer, importer, or dealer may be sued
33 in tort for any damages proximately caused by an act of the manufacturer,
34 importer, or dealer in violation of a state or federal law or regulation.

35 (2) In any action brought under this subsection (d), the
36 plaintiff shall have the burden of proving by a preponderance of the evidence

1 that the defendant violated the state or federal law or regulation.

2
3 SECTION 3. Applicability.

4 Nothing contained in this act shall bar recovery by a plaintiff in a
5 cause of action in which the plaintiff proves that the proximate cause of the
6 injury, damage, or death was:

7 (1) A defective firearm, defective non-powder gun or defective
8 ammunition causing the firearm, non-powder gun or ammunition to be at
9 variance with its design; or

10 (2) A defectively designed firearm, defectively designed non-
11 powder gun or defectively designed ammunition that did not function in the
12 manner reasonably expected by the ordinary consumer of the firearm, non-
13 powder gun or ammunition.

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15 /s/ Medley, et al

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18 APPROVED: 3/31/2003