

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1326

"AN ACT TO PROVIDE THAT FIREARM AND AMMUNITION MANUFACTURERS
SHALL NOT BE LIABLE FOR INJURIES CAUSED FROM THE INHERENT CAPABILITY
OF FIREARMS AND AMMUNITION TO CAUSE INJURY."

Amendment No. 1 to House Bill No. 1326.

Amend House Bill No. 1326 as originally introduced:

Delete the title and substitute: "AN ACT TO PROVIDE THAT FIREARM, NON-POWDER GUN AND AMMUNITION MANUFACTURERS SHALL NOT BE LIABLE FOR INJURIES CAUSED FROM THE INHERENT CAPABILITY OF FIREARMS, NON-POWDER GUNS AND AMMUNITION TO CAUSE INJURY; AND FOR OTHER PURPOSES."

AND

Delete the subtitle and substitute: "AN ACT TO PROVIDE THAT FIREARM, NON-POWDER GUN AND AMMUNITION MANUFACTURERS SHALL NOT BE LIABLE FOR INJURIES CAUSED FROM THE INHERENT CAPABILITY OF FIREARMS, NON-POWDER GUNS AND AMMUNITION TO CAUSE INJURY."

AND

Delete everything after the enacting clause and substitute:

"SECTION 1. Proximate cause.

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

(b) The manufacturer's, importer's, or distributor's placement of a firearm, non-powder gun or ammunition into the stream of commerce shall not be conduct deemed sufficient to constitute the proximate cause of injury, damage, or death resulting from a person's use of the firearm, non-powder gun or ammunition.

(c) In a product liability action concerning the accidental discharge of a firearm or non-powder gun, the manufacturer's, importer's, or distributor's placement of the firearm or non-powder gun in the stream of commerce shall not be conduct deemed sufficient to constitute proximate



cause, even if the accidental discharge of the firearm or non-powder gun is found to be foreseeable.

(d) It shall be an absolute defense for a firearms, non-powder guns or ammunition manufacturer, importer, or dealer, in a product liability action brought by any person, that the injury, damage, or death resulted from the use of the firearm, non-powder gun or ammunition during the commission of a misdemeanor or felony offense.

SECTION 2. Limitations on actions - Award of fees.

(a) A person or other public or private entity may not bring an action in tort, other than a product liability action, against a firearms, non-powder guns or ammunition manufacturer, importer, or dealer for any remedy arising from physical or emotional injury, physical damage, or death caused by the discharge of a firearm, non-powder gun or ammunition.

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

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

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

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

(2) In any action brought under this subsection (d), the plaintiff shall have the burden of proving by clear and convincing evidence that the defendant violated the state or federal law or regulation.

SECTION 3. Applicability.

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

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

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

The Amendment was read _____
By: Representative Medley
PBB/RCK - 020420031300
RCK275

Chief Clerk