

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

A Bill

HOUSE BILL 1326

4
5 By: Representatives Medley, Berry, Creekmore, Gillespie, Harris, Hathorn, House, Jacobs, Kenney, Key,
6 Matayo, Nichols, Ormond, Pace, Parks, Penix, Rosenbaum, Verkamp, Walters

7 By: Senators Laverty, Altes
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For An Act To Be Entitled

10 AN ACT TO PROVIDE THAT FIREARM AND AMMUNITION
11 MANUFACTURERS SHALL NOT BE LIABLE FOR INJURIES
12 CAUSED FROM THE INHERENT CAPABILITY OF FIREARMS
13 AND AMMUNITION TO CAUSE INJURY; AND FOR OTHER
14 PURPOSES.
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Subtitle

17 AN ACT TO PROVIDE THAT FIREARM AND
18 AMMUNITION MANUFACTURERS SHALL NOT BE
19 LIABLE FOR INJURIES CAUSED FROM THE
20 INHERENT CAPABILITY OF FIREARMS AND
21 AMMUNITION TO CAUSE INJURY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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SECTION 1. Proximate cause.

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

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

36 (c) In a product liability action concerning the accidental discharge



1 of a firearm, the manufacturer's, importer's, or distributor's placement of
2 the firearm in the stream of commerce shall not be conduct deemed sufficient
3 to constitute proximate cause, even if the accidental discharge of the
4 firearm is found to be foreseeable.

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

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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 or
14 ammunition manufacturer, importer, or dealer for any remedy arising from
15 physical or emotional injury, physical damage, or death caused by the
16 discharge of a firearm or ammunition.

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

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

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

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

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

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35 SECTION 3. Applicability.

36 Nothing contained in this act shall bar recovery by a plaintiff in a

1 cause of action in which the plaintiff proves that the proximate cause of the
2 injury, damage, or death was:

3 (1) A defective firearm or defective ammunition causing the
4 firearm or ammunition to be at variance with its design; or

5 (2) A defectively designed firearm or defectively designed
6 ammunition that did not function in the manner reasonably expected by the
7 ordinary consumer of the firearm or ammunition.

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