

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

A Bill

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

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

Subtitle

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

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

34 (b) The manufacturer's, importer's, or distributor's placement of a
35 firearm, non-powder gun or ammunition into the stream of commerce shall not
36 be conduct deemed sufficient to constitute the proximate cause of injury,



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1 damage, or death resulting from a person's use of the firearm, non-powder gun
2 or ammunition.

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

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

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

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

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

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

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

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

36 (2) In any action brought under this subsection (d), the

1 plaintiff shall have the burden of proving by clear and convincing evidence
2 that the defendant violated the state or federal law or regulation.

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4 SECTION 3. Applicability.

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

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

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

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16 /s/ Medley, et al
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