State of Arkansas

76th General Assembly

Regular Session, 1987   SENATE BILL 584

By: Senator Benham

"AN ACT FOR THE MODEL 'DEFECTLESS PRODUCT' LIABILITY ACT OF
1987"

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

SECTION 1. (a) In a products liability action, whether a firearm or ammu-
nition shall be deemed defective in design shall not be based upon a com-
parison or weighing of the benefits of the product against the risk of injury,
damage, or death posed by its potential to cause such injury, damage, or death
when discharged.

(b) In a products liability action brought against a firearm or ammuni-
tion manufacturer, importer, distributor, or seller at retail alleging a
design defect, the burden is on the plaintiff to prove, in addition to any
other elements required to be proven: that the actual design of the firearm or
ammunition was defective, causing it not to function in a manner reasonably
expected by an ordinary consumer of firearms or ammunition; that such defec-
tive design was the proximate cause of the injury, damage, or death; and that
if a specific alternative design, which was reasonably technologically and
economically feasible at the time the firearm or ammunition was manufactured
and which would not have impaired the intended function of the firearm or
ammunition, had been adopted, the injury, damage, or death would not have
occurred. The inherent potential of a firearm or ammunition to cause injury,
damage, or death when discharged shall not be a basis for a finding that the
product is defective in design.

(c) In a products liability action,injury, damage, or death resulting
from the discharge of a firearm or ammunition is not proximately caused by the
inherent capability of the product to cause injury, damage, or death, but is
proximately caused by the actual discharge of the product.

(d) In a products liability action for damages because of injury,

damage, or death resulting from a third party's use of a firearm or ammunition to commit a negligent, willful, reckless, or criminal act, the manufacturer's, importer's, distributors, or retail seller's placement of such firearm or ammunition in the stream of commerce shall not be conduct deemed sufficient to constitute the proximate cause of any such injury, damage or death, even if such acts are found to be foreseeable.

When a firearm or ammunition is alleged to have caused injury, damage, or death, and such injury, damage, or death immediately resulted from the use of a firearm or ammunition to commit a criminal act, the occurrence of such a criminal act shall be an absolute defense to any claim alleging a defect in the firearm or ammunition.

(e)   In a products liability action for damages because of injury, damage, or death resulting from the accidental discharge of a firearm, the manufacturer's, importer's, distributor's, or retail seller's placement of the firearm or ammunition in the stream of commerce is not conduct sufficient to constitute proximate cause in any action alleging a defect in a firearm or ammunition, even if accidental discharge is found to be foreseeable.

(f)   Nothing herein shall be construed to bar recovery where the plaintiff proves that the proximate cause of the injury, damage, or death was a firearm or ammunition which: contained a defect in manufacture which caused it to be at variance from its design; or which was designed so that it did not function in a manner reasonably expected by the ordinary consumer of firearms or ammunition; or for which there existed at the time of manufacture a reasonably technologically and economically feasible alternative design which would have eliminated the risk of danger to the degree that injury, damage, or death would not have occurred, but which would not have materially impaired the intended function, usefulness, or desirability of the firearm or ammunition.

(g)   This Act is declaratory of existing law and applies to any action in any court pending on or commencing after its effective date."

SECTION 2.   All laws and parts of laws in conflict with this Act are hereby repealed.