

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0832.01 Julie Pelegrin

HOUSE BILL 00-1208

STATE OF COLORADO

BY REPRESENTATIVES Clapp, Berry, Dean, Decker, Fairbank, Hefley, Hoppe, Johnson, King, Larson, Lee, May, McKay, Nunez, Paschall, Scott, Sinclair, Spence, Spradley, Taylor, Witwer, Young; also SENATOR Teck.

REVISED

A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON CIVIL ACTIONS REGARDING FIREARMS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits any civil suit in tort, other than a products liability action, against a firearms or ammunition manufacturer, importer, or dealer or against any firearms trade association for any remedy arising from any physical or emotional injury, physical damage, or death caused by the discharge of a firearm or ammunition. Prohibits any type of action that would hold a firearms or ammunition manufacturer, importer, or dealer liable for the actions of another person. Instructs the court to dismiss any such prohibited civil action and to award reasonable attorney fees and court costs to each defendant named in the action.

SENATE Amended 2nd Reading March 24, 2000

1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. Part 5 of article 21 of title 13, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

HOUSE 3rd Reading Unamended February 14, 2000

5 13-21-504.5. Limitations on actions - award of fees. (1) A  
6 PERSON OR OTHER PUBLIC OR PRIVATE ENTITY MAY NOT BRING AN ACTION  
7 IN TORT, OTHER THAN A PRODUCT LIABILITY ACTION, AGAINST A FIREARMS  
8 OR AMMUNITION MANUFACTURER, IMPORTER, OR DEALER OR AGAINST ANY

HOUSE 2nd Reading Unamended February 11, 2000

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.

1 FIREARMS TRADE ASSOCIATION FOR ANY REMEDY ARISING FROM PHYSICAL  
2 OR EMOTIONAL INJURY, PHYSICAL DAMAGE, OR DEATH CAUSED BY THE  
3 DISCHARGE OF A FIREARM OR AMMUNITION.

4 (2) IN NO TYPE OF ACTION SHALL A FIREARMS OR AMMUNITION  
5 MANUFACTURER, IMPORTER, OR DEALER OR A FIREARMS TRADE  
6 ASSOCIATION BE HELD LIABLE AS A THIRD PARTY FOR THE ACTIONS OF  
7 ANOTHER PERSON.

8 (3) THE COURT, UPON THE FILING OF A MOTION TO DISMISS  
9 PURSUANT TO RULE 12(b) OF THE COLORADO RULES OF CIVIL PROCEDURE,  
10 SHALL DISMISS ANY ACTION BROUGHT AGAINST A FIREARMS OR  
11 AMMUNITION MANUFACTURER, IMPORTER, OR DEALER OR AGAINST ANY  
12 FIREARMS TRADE ASSOCIATION THAT THE COURT DETERMINES IS  
13 PROHIBITED UNDER SUBSECTION (1) OR (2) OF THIS SECTION. UPON  
14 DISMISSAL PURSUANT TO THIS SUBSECTION (3), THE COURT SHALL AWARD  
15 REASONABLE ATTORNEY FEES, IN ADDITION TO COSTS, TO EACH  
16 DEFENDANT NAMED IN THE ACTION.

17 (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF  
18 THIS SECTION, A FIREARMS OR AMMUNITION MANUFACTURER, IMPORTER,  
19 OR DEALER OR A FIREARMS TRADE ASSOCIATION MAY BE SUED IN TORT FOR  
20 ANY DAMAGES PROXIMATELY CAUSED BY AN ACT OF THE MANUFACTURER,  
21 IMPORTER, DEALER, OR ASSOCIATION IN VIOLATION OF A STATE OR  
22 FEDERAL STATUTE OR REGULATION. IN ANY ACTION BROUGHT PURSUANT  
23 TO THE PROVISIONS OF THIS SUBSECTION (4), THE PLAINTIFF SHALL HAVE  
24 THE BURDEN OF PROVING BY CLEAR AND CONVINCING EVIDENCE THAT THE  
25 DEFENDANT VIOLATED THE STATE OR FEDERAL STATUTE OR REGULATION.

26 **SECTION 2.** 13-21-501, Colorado Revised Statutes, is amended

1 to read:

2 **13-21-501. Legislative declaration.** (1) The general assembly  
3 hereby declares that it shall be the policy in this state that product liability  
4 for injury, damage, or death caused by the discharge of a firearm or  
5 ammunition shall be based only upon an actual defect in the design or  
6 manufacture of such firearm or ammunition and not upon the inherent  
7 potential of a firearm or ammunition to cause injury, damage, or death  
8 when discharged.

9 (2) THE GENERAL ASSEMBLY FURTHER FINDS THAT IT SHALL BE THE  
10 POLICY OF THIS STATE THAT A CIVIL ACTION IN TORT FOR ANY REMEDY  
11 ARISING FROM PHYSICAL OR EMOTIONAL INJURY, PHYSICAL DAMAGE, OR  
12 DEATH CAUSED BY THE DISCHARGE OF A FIREARM OR AMMUNITION SHALL  
13 BE BASED ONLY UPON AN ACTUAL DEFECT IN THE DESIGN OR  
14 MANUFACTURE OF SUCH FIREARM OR AMMUNITION OR UPON THE  
15 COMMISSION OF A VIOLATION OF A STATE OR FEDERAL STATUTE OR  
16 REGULATION AND NOT UPON ANY OTHER THEORY OF LIABILITY. THE  
17 GENERAL ASSEMBLY ALSO FINDS THAT UNDER NO THEORY SHALL A  
18 FIREARMS OR A AMMUNITION MANUFACTURER, IMPORTER, OR DEALER OR  
19 FIREARMS TRADE ASSOCIATION BE HELD LIABLE FOR THE ACTIONS OF  
20 ANOTHER PERSON.

21 **SECTION 3. Effective date - applicability.** This act shall take  
22 effect upon passage, and shall apply to causes of action arising on or after  
23 said date.

24 **SECTION 4. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.