

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0822.01 Jerry Barry x4341

SENATE BILL 13-196

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SENATE SPONSORSHIP

Morse,

HOUSE SPONSORSHIP

Fields,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE "ASSAULT WEAPON RESPONSIBILITY ACT".

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill concerns liability for the discharge of an assault weapon. It defines an assault weapon as any firearm except:

- ! Handguns;
- ! Shotguns; and
- ! Bolt-action rifles.

The bill establishes strict liability against a person who discharges an assault weapon for damages caused by the discharge. It creates an

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.*

exception for damages occurring within a dwelling if the assault weapon was used to defend the person or others from another person who was about to use physical force against the person or another person within the dwelling. The bill establishes certain exceptions to liability for an owner of an assault weapon.

The bill establishes liability for a person who owns, obtains, or possesses an assault weapon for damages caused by the discharge of the assault weapon by a third person if the person was negligent in storing the assault weapon or allowing a third party to come into possession of the assault weapon.

The bill establishes liability for a seller and transferor of an assault weapon for damages caused by the discharge of the assault weapon by a third party if the person:

- ! Negligently entrusted the assault weapon to a third party whom the person knew or reasonably should have known might use the weapon to cause bodily injury to the third party or others; or
- ! Sold or transferred the assault weapon in violation of any state or federal law.

The bill establishes liability for a seller, distributor, or manufacturer of an assault weapon for damages caused by the discharge of the assault weapon by a third party if the person sold or transferred the assault weapon in violation of any state or federal law.

The bill requires sellers, distributors, and manufacturers to:

- ! Use the highest degree of care in selling, transferring, distributing, and storing assault weapons; and
- ! To receive information to have reasonable grounds to believe that the weapon will not be possessed by a person who may use it dangerously or unlawfully.

The bill specifies that failure to do so constitutes a violation of state law.

The bill repeals the statutes that prohibit certain civil actions from being brought against manufacturers of firearms and ammunition.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article  
3 21 of title 13 as follows:

4 **PART 12**  
5 **ASSAULT WEAPON**  
6 **RESPONSIBILITY ACT**

7 **13-21-1201. Short title.** THIS PART 12 SHALL BE KNOWN AND MAY

1 BE CITED AS THE "ASSAULT WEAPON RESPONSIBILITY ACT".

2 **13-21-1202. Legislative declaration.** (1) THE GENERAL  
3 ASSEMBLY HEREBY FINDS AND DECLARES:

4 (a) IN 2012 THERE WERE SEVEN MASS MURDERS IN THE UNITED  
5 STATES, INCLUDING ONE IN AURORA THAT KILLED TWELVE PEOPLE AND  
6 INJURED FIFTY-EIGHT OTHERS;

7 (b) MILITARY-STYLE ASSAULT WEAPONS ARE A COMMON THREAD  
8 LINKING THE RECENT MASS SHOOTINGS IN NEWTOWN, OAK CREEK,  
9 AURORA, COLUMBINE, AND OTHERS;

10 (c) BECAUSE THESE WEAPONS WERE ORIGINALLY INTENDED FOR  
11 COMBAT AND WERE SPECIFICALLY DESIGNED TO KILL LARGE NUMBERS OF  
12 PEOPLE IN A SHORT PERIOD OF TIME, THEY MADE IT POSSIBLE FOR THE  
13 SHOOTERS IN THOSE TRAGEDIES TO KILL OR INJURE BETWEEN NINE AND  
14 SEVENTY PEOPLE IN A SINGLE INCIDENT;

15 (d) ANY PRIVATE BENEFIT FOR PERSONS TO OWN SUCH WEAPONS  
16 MUST BE WEIGHED AGAINST THE GREAT DANGER THAT THEY POSE TO THE  
17 PUBLIC; AND

18 (e) THE RIGHT TO MANUFACTURE, SELL, OR OWN ASSAULT  
19 WEAPONS MUST CARRY WITH IT SOME OF THE RESPONSIBILITY FOR  
20 DAMAGE, INJURY, AND DEATH THAT RESULTS FROM THE DISCHARGE OF  
21 THAT WEAPON.

22 **13-21-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE  
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "ASSAULT WEAPON" MEANS A FIREARM THAT IS NOT A:

25 (a) HANDGUN;

26 (b) BOLT-ACTION RIFLE; OR

27 (c) SHOTGUN.

1 (2) "BOLT-ACTION RIFLE" MEANS A FIREARM THAT IS:

2 (a) DESIGNED OR REDESIGNED, MADE OR REMADE, OR INTENDED  
3 TO BE FIRED FROM THE SHOULDER;

4 (b) DESIGNED OR REDESIGNED, MADE OR REMADE, AND INTENDED  
5 TO USE THE ENERGY OF THE EXPLOSION IN A FIXED METALLIC CARTRIDGE  
6 TO FIRE ONLY A SINGLE PROJECTILE THROUGH A RIFLE BORE FOR EACH  
7 PULL OF THE TRIGGER; AND

8 (c) LOADED BY A MANUALLY OPERATED BOLT, PUMP, LEVER, OR  
9 SLIDE ACTION.

10 (3) "FIREARM" HAS THE SAME MEANING AS DEFINED IN SECTION  
11 18-1-901 (3) (h), C.R.S.

12 (4) "HANDGUN" MEANS A PISTOL, REVOLVER, OR OTHER FIREARM  
13 OF ANY DESCRIPTION, LOADED OR UNLOADED, FROM WHICH ANY SHOT,  
14 BULLET, OR OTHER MISSILE CAN BE DISCHARGED, THE LENGTH OF THE  
15 BARREL OF WHICH, NOT INCLUDING ANY REVOLVING, DETACHABLE, OR  
16 MAGAZINE BREECH, DOES NOT EXCEED TWELVE INCHES.

17 (5) "NEGLIGENT ENTRUSTMENT" MEANS THE SUPPLYING OF AN  
18 ASSAULT WEAPON BY A SELLER OR TRANSFEROR FOR USE BY A THIRD  
19 PARTY WHEN THE SELLER OR TRANSFEROR KNOWS, OR REASONABLY  
20 SHOULD KNOW, THAT THE THIRD PARTY TO WHOM THE ASSAULT WEAPON  
21 IS SUPPLIED IS LIKELY TO, AND DOES, USE THE ASSAULT WEAPON IN A  
22 MANNER INVOLVING UNREASONABLE RISK OF PHYSICAL INJURY TO THE  
23 THIRD PARTY OR OTHERS.

24 (6) "SHOTGUN" MEANS A FIREARM WITH ONE OR MORE BARRELS  
25 THAT IS:

26 (a) DESIGNED OR REDESIGNED, MADE OR REMADE, OR INTENDED  
27 TO BE FIRED FROM THE SHOULDER;

1 (b) DESIGNED OR REDESIGNED, MADE OR REMADE, AND INTENDED  
2 TO USE THE ENERGY OF THE EXPLOSION IN A FIXED SHOTGUN SHELL TO  
3 FIRE THROUGH A SMOOTH BORE EITHER A NUMBER OF BALL SHOT OR A  
4 SINGLE PROJECTILE FOR EACH PULL OF THE TRIGGER; AND

5 (c) LOADED MANUALLY BY PUMP ACTION.

6 **13-21-1204. Liability of person who discharges an assault**

7 **weapon.** (1) A PERSON IS STRICTLY LIABLE FOR ALL INJURIES AND  
8 DAMAGES RESULTING FROM THE DISCHARGE OF AN ASSAULT WEAPON BY  
9 THE PERSON.

10 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF  
11 THIS SECTION, A PERSON IS NOT LIABLE FOR INJURIES OR DAMAGES  
12 OCCURRING WITHIN A DWELLING RESULTING FROM THE DISCHARGE OF AN  
13 ASSAULT WEAPON BY THE PERSON IF THE PERSON REASONABLY BELIEVED  
14 THAT HE OR SHE WAS DEFENDING HIMSELF OR HERSELF OR ANOTHER  
15 OCCUPANT OF THE DWELLING FROM ANOTHER PERSON WHO WAS ABOUT TO  
16 USE PHYSICAL FORCE AGAINST THE PERSON OR ANOTHER OCCUPANT.

17 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF  
18 THIS SUBSECTION (2), A PERSON WHO OWNS, OBTAINS, OR POSSESSES AN  
19 ASSAULT WEAPON IS LIABLE FOR ALL INJURIES AND DAMAGES OCCURRING  
20 OUTSIDE OF THE DWELLING RESULTING FROM THE DISCHARGE OF AN  
21 ASSAULT WEAPON BY THE PERSON.

22 **13-21-1205. Liability of owners or possessors of assault**

23 **weapons - surrender of assault weapons.** (1) A PERSON WHO OWNS,  
24 OBTAINS, OR POSSESSES AN ASSAULT WEAPON IS LIABLE FOR ALL INJURIES  
25 AND DAMAGES RESULTING FROM THE DISCHARGE OF THE ASSAULT  
26 WEAPON BY A THIRD PARTY IF THE PERSON NEGLIGENTLY STORED THE  
27 ASSAULT WEAPON OR NEGLIGENTLY TRANSFERRED OR ALLOWED A THIRD

1 PARTY TO COME INTO POSSESSION OF THE ASSAULT WEAPON.

2 (2) IT IS AN AFFIRMATIVE DEFENSE TO A CLAIM UNDER SUBSECTION  
3 (1) OF THIS SECTION IF:

4 (a) PRIOR TO THE INJURIES OR DAMAGES SUSTAINED FROM THE  
5 DISCHARGE OF THE ASSAULT WEAPON, THE OWNER OR POSSESSOR OF THE  
6 ASSAULT WEAPON SURRENDERED THE ASSAULT WEAPON AS AUTHORIZED  
7 PURSUANT TO SUBSECTION (3) OF THIS SECTION; OR

8 (b) THE OWNER OR POSSESSOR OF THE ASSAULT WEAPON:

9 (I) TOOK ALL REASONABLE MEASURES TO SAFELY SECURE THE  
10 ASSAULT WEAPON IN A BUILDING;

11 (II) THE ASSAULT WEAPON WAS STOLEN FROM THE BUILDING; AND

12 (III) EITHER:

13 (A) PRIOR TO THE INJURIES OR DAMAGES SUSTAINED FROM THE  
14 DISCHARGE OF THE ASSAULT WEAPON, THE PERSON REPORTED THE  
15 ASSAULT WEAPON STOLEN TO THE LAW ENFORCEMENT AGENCY HAVING  
16 JURISDICTION WHERE THE BUILDING WAS LOCATED; OR

17 (B) AT THE TIME OF THE INJURIES OR DAMAGES SUSTAINED FROM  
18 THE DISCHARGE OF THE ASSAULT WEAPON, DESPITE REASONABLE  
19 DILIGENCE, THE PERSON WAS UNAWARE THAT THE ASSAULT WEAPON WAS  
20 STOLEN OR THERE WAS INSUFFICIENT TIME AFTER THE PERSON BECAME  
21 AWARE THAT THE ASSAULT WEAPON WAS STOLEN TO REPORT THE ASSAULT  
22 WEAPON STOLEN TO THE LAW ENFORCEMENT AGENCY.

23 (3) (a) AN OWNER OR POSSESSOR OF AN ASSAULT WEAPON MAY  
24 SURRENDER THE ASSAULT WEAPON TO:

25 (I) A LOCAL LAW ENFORCEMENT AGENCY, WHICH MAY CHARGE A  
26 FEE THAT MAY NOT EXCEED THE AGENCY'S ACTUAL DIRECT AND INDIRECT  
27 COST IN DISPOSING OF THE ASSAULT WEAPON; OR

1 (II) A LICENSED DEALER, AS DEFINED IN 18 U.S.C. SEC. 921 (a)  
2 (11). A LICENSED DEALER MAY CHARGE A FEE FOR SERVICES PROVIDED  
3 PURSUANT TO THIS SUBSECTION (3).

4 (b) IF AN OWNER OR POSSESSOR OF AN ASSAULT WEAPON  
5 SURRENDERS AN ASSAULT WEAPON PURSUANT TO THIS SUBSECTION (3),  
6 THE PERSON SHALL MAINTAIN WRITTEN EVIDENCE OF THE SURRENDER AND  
7 THE RECEIPT OF THE ASSAULT WEAPON BY AN ENTITY LISTED IN  
8 PARAGRAPH (a) OF THIS SUBSECTION (3).

9 **13-21-1206. Liability of sellers and transferors of assault**  
10 **weapons.** (1) A PERSON WHO SELLS OR TRANSFERS AN ASSAULT WEAPON  
11 ON OR AFTER SEPTEMBER 1, 2013, IS LIABLE FOR ALL INJURIES AND  
12 DAMAGES RESULTING FROM THE DISCHARGE OF THE ASSAULT WEAPON BY  
13 A THIRD PARTY IF THE PERSON:

14 (a) NEGLIGENTLY ENTRUSTS THE ASSAULT WEAPON TO A THIRD  
15 PARTY; OR

16 (b) SOLD OR TRANSFERRED THE ASSAULT WEAPON KNOWING THE  
17 SALE WAS IN VIOLATION OF ANY STATE OR FEDERAL LAW, AND THE  
18 VIOLATION WAS A PROXIMATE CAUSE OF THE INJURIES OR DAMAGES.

19 (2) A PERSON WHO SELLS OR TRANSFERS AN ASSAULT WEAPON IS  
20 DEEMED TO BE AWARE:

21 (a) THAT ASSAULT WEAPONS ARE SOUGHT AFTER BY AND ARE  
22 USEFUL FOR CRIMINALS, MASS KILLERS, AND THOSE WITH CRIMINAL  
23 INTENT BUT ARE RARELY NECESSARY FOR LAWFUL PURPOSES; AND

24 (b) OF THE EXTREME LIKELIHOOD THAT AN ASSAULT WEAPON  
25 THAT IS SOLD OR TRANSFERRED WILL BE USED IN A CRIME OR WILL RESULT  
26 IN SERIOUS INJURY OR DEATH.

27 **13-21-1207. Liability of sellers, distributors, and**

1 **manufacturers of assault weapons.** (1) A PERSON WHO IS A SELLER,  
2 DISTRIBUTOR, OR MANUFACTURER OF AN ASSAULT WEAPON WHO, ON OR  
3 AFTER SEPTEMBER 1, 2013, SELLS, DISTRIBUTES, OR MANUFACTURES AN  
4 ASSAULT WEAPON IS LIABLE FOR ALL INJURIES AND DAMAGES RESULTING  
5 FROM THE DISCHARGE OF THE ASSAULT WEAPON BY A THIRD PARTY IF THE  
6 PERSON SELLS, DISTRIBUTES, MANUFACTURES, OR TRANSFERS THE  
7 ASSAULT WEAPON IN KNOWING VIOLATION OF ANY STATE OR FEDERAL  
8 LAW AND THE VIOLATION WAS A PROXIMATE CAUSE OF THE INJURIES OR  
9 DAMAGES.

10 (2) (a) BECAUSE OF THE DANGEROUS NATURE OF ASSAULT  
11 WEAPONS, SELLERS, DISTRIBUTORS, AND MANUFACTURERS OF ASSAULT  
12 WEAPONS ARE REQUIRED TO:

13 (I) EXERCISE THE HIGHEST DEGREE OF CARE IN SELLING,  
14 TRANSFERRING, DISTRIBUTING, AND STORING ASSAULT WEAPONS; AND

15 (II) SELL, TRANSFER, OR DISTRIBUTE AN ASSAULT WEAPON ONLY  
16 AFTER RECEIVING SUFFICIENT COMMUNICATION AND INFORMATION TO  
17 HAVE REASONABLE GROUNDS TO BELIEVE THAT THE WEAPON WILL NOT BE  
18 POSSESSED OR USED BY A PERSON WHO MAY USE IT UNSAFELY OR  
19 UNLAWFULLY.

20 (b) FAILURE TO EXERCISE THE HIGHEST DEGREE OF CARE AS  
21 REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION  
22 (2) OR FAILURE TO HAVE REASONABLE GROUNDS AS REQUIRED BY  
23 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2)  
24 CONSTITUTES A KNOWING VIOLATION OF LAW APPLICABLE TO THE SALE OR  
25 MARKETING OF AN ASSAULT WEAPON.

26 **13-21-1208. Exceptions to liability.** (1) NOTWITHSTANDING THE  
27 PROVISIONS OF SECTIONS 13-21-1204 TO 13-21-1207, THE FOLLOWING



1 PERSONS ARE NOT LIABLE UNDER THIS PART 12 FOR DAMAGES OR INJURIES  
2 RESULTING FROM THE DISCHARGE OF AN ASSAULT WEAPON:

3 (a) A PEACE OFFICER, AS DEFINED IN SECTION 16-2.5-101, C.R.S.,  
4 WHILE ACTING WITHIN THE SCOPE OF THE PEACE OFFICER'S OFFICIAL  
5 DUTIES;

6 (b) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR  
7 OF THE COLORADO NATIONAL GUARD WHILE ACTING WITHIN THE SCOPE  
8 OF THE MEMBER'S OFFICIAL DUTIES;

9 (c) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

10 (d) A MANUFACTURER OR SELLER OF AN ASSAULT WEAPON THAT  
11 IS TRANSFERRED TO THE ARMED FORCES OF THE UNITED STATES, A  
12 NATIONAL GUARD OF A STATE OF THE UNITED STATES, OR A PEACE  
13 OFFICER AUTHORIZED BY A STATE OF THE UNITED STATES AND THE  
14 AGENCY BY WHICH THE PEACE OFFICER IS EMPLOYED TO CARRY AN  
15 ASSAULT WEAPON.

16 **13-21-1209. Nonexclusiveness - joinder.** (1) ANY CAUSE OF  
17 ACTION ESTABLISHED BY THIS PART 12 IS IN ADDITION TO AND NOT IN LIEU  
18 OF ANY OTHER CAUSE OF ACTION.

19 (2) TWO OR MORE PERSONS MAY JOIN TOGETHER IN ONE ACTION  
20 UNDER THIS PART 12 IF EACH PERSON SUFFERED DAMAGES OR INJURIES  
21 FROM A DISCHARGE OF THE SAME ASSAULT WEAPON.

22 **13-21-1210. Contribution among and recovery from multiple**  
23 **defendants.** NOTWITHSTANDING THE PROVISIONS OF SECTION 13-50.5-102  
24 (3), A PERSON SUBJECT TO LIABILITY PURSUANT TO THIS PART 12 HAS A  
25 RIGHT OF CONTRIBUTION AGAINST ANY OTHER PERSON SUBJECT TO  
26 LIABILITY UNDER THIS PART 12. CONTRIBUTION MAY BE ENFORCED EITHER  
27 IN THE ORIGINAL ACTION OR BY A SEPARATE ACTION BROUGHT FOR THAT

1 PURPOSE. A PLAINTIFF MAY SEEK RECOVERY AGAINST A PERSON AGAINST  
2 WHOM A DEFENDANT HAS ASSERTED A RIGHT OF CONTRIBUTION IN  
3 ACCORDANCE WITH THIS PART 12 AND OTHER LAWS.

4 **13-21-1211. Severability.** IF ANY PROVISION OF THIS PART 12 OR  
5 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD  
6 INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR  
7 APPLICATIONS OF THIS PART 12 THAT CAN BE GIVEN EFFECT WITHOUT THE  
8 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF  
9 THIS PART 12 ARE DECLARED TO BE SEVERABLE.

10 **SECTION 2.** In Colorado Revised Statutes, **repeal** part 5 of  
11 article 21 of title 13 as follows:

12 **13-21-501. Legislative declaration.** ~~(1) The general assembly~~  
13 ~~hereby declares that it shall be the policy in this state that product liability~~  
14 ~~for injury, damage, or death caused by the discharge of a firearm or~~  
15 ~~ammunition shall be based only upon an actual defect in the design or~~  
16 ~~manufacture of such firearm or ammunition and not upon the inherent~~  
17 ~~potential of a firearm or ammunition to cause injury, damage, or death~~  
18 ~~when discharged.~~

19 ~~(2) The general assembly further finds that it shall be the policy~~  
20 ~~of this state that a civil action in tort for any remedy arising from physical~~  
21 ~~or emotional injury, physical damage, or death caused by the discharge of~~  
22 ~~a firearm or ammunition shall be based only upon an actual defect in the~~  
23 ~~design or manufacture of such firearm or ammunition or upon the~~  
24 ~~commission of a violation of a state or federal statute or regulation and~~  
25 ~~not upon any other theory of liability. The general assembly also finds~~  
26 ~~that under no theory shall a firearms or an ammunition manufacturer,~~  
27 ~~importer, or dealer be held liable for the actions of another person.~~

1           **13-21-502. "Product liability action" - definition.** ~~As used in~~  
2 ~~this part 5, unless the context otherwise requires, "product liability action"~~  
3 ~~means a claim for damages brought against the manufacturer, distributor,~~  
4 ~~importer, or seller of firearms or ammunition alleging a defect in the~~  
5 ~~design or manufacture of a firearm or ammunition.~~

6           **13-21-503. Determination of defect - burden of proof.** ~~(1) In~~  
7 ~~a product liability action, whether a firearm or ammunition shall be~~  
8 ~~deemed defective in design shall not be based upon its potential to cause~~  
9 ~~injury, damage, or death when discharged.~~

10           ~~(2) The burden shall be on the plaintiff to prove, in addition to any~~  
11 ~~other elements required to be proven:~~

12           ~~(a) In a product liability action alleging a design defect, that the~~  
13 ~~actual design was defective and that such defective design was the~~  
14 ~~proximate cause of the injury, damage, or death;~~

15           ~~(b) In a product liability action alleging a defect in manufacture,~~  
16 ~~that the firearm or ammunition was manufactured at variance from its~~  
17 ~~design and that such defective manufacture was the proximate cause of~~  
18 ~~the injury, damage, or death.~~

19           ~~(3) The inherent potential of a firearm or ammunition to cause~~  
20 ~~injury, damage, or death when discharged shall not be a basis for a~~  
21 ~~finding that the product is defective in design or manufacture.~~

22           **13-21-504. Proximate cause.** ~~(1) In a product liability action, the~~  
23 ~~actual discharge of a firearm or ammunition shall be the proximate cause~~  
24 ~~of injury, damage, or death resulting from the use of such product and not~~  
25 ~~the inherent capability of the product to cause injury, damage, or death.~~

26           ~~(2) The manufacturer's, importer's, or distributor's placement of~~  
27 ~~a firearm or ammunition in the stream of commerce, even if such~~

1 ~~placement is found to be foreseeable, shall not be conduct deemed~~  
2 ~~sufficient to constitute the proximate cause of injury, damage, or death~~  
3 ~~resulting from a third party's use of the product.~~

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

9 ~~(4) In addition to any limitation of an action set forth in section~~  
10 ~~13-80-119, in a product liability action brought by the criminal, it shall be~~  
11 ~~an absolute defense that the injury, damage, or death immediately resulted~~  
12 ~~from the use of the firearm or ammunition during the commission of the~~  
13 ~~criminal act which is a felony or a class 1 or class 2 misdemeanor.~~

14 **13-21-504.5. Limitations on actions - award of fees.** ~~(1) A~~  
15 ~~person or other public or private entity may not bring an action in tort,~~  
16 ~~other than a product liability action, against a firearms or ammunition~~  
17 ~~manufacturer, importer, or dealer for any remedy arising from physical or~~  
18 ~~emotional injury, physical damage, or death caused by the discharge of a~~  
19 ~~firearm or ammunition.~~

20 ~~(2) In no type of action shall a firearms or ammunition~~  
21 ~~manufacturer, importer, or dealer be held liable as a third party for the~~  
22 ~~actions of another person.~~

23 ~~(3) The court, upon the filing of a motion to dismiss pursuant to~~  
24 ~~rule 12 (b) of the Colorado rules of civil procedure, shall dismiss any~~  
25 ~~action brought against a firearms or ammunition manufacturer, importer,~~  
26 ~~or dealer that the court determines is prohibited under subsection (1) or~~  
27 ~~(2) of this section. Upon dismissal pursuant to this subsection (3), the~~

1 court shall award reasonable attorney fees, in addition to costs, to each  
2 defendant named in the action.

3 (4) ~~Notwithstanding the provisions of subsection (1) of this~~  
4 ~~section, a firearms or ammunition manufacturer, importer, or dealer may~~  
5 ~~be sued in tort for any damages proximately caused by an act of the~~  
6 ~~manufacturer, importer, or dealer in violation of a state or federal statute~~  
7 ~~or regulation. In any action brought pursuant to the provisions of this~~  
8 ~~subsection (4), the plaintiff shall have the burden of proving by clear and~~  
9 ~~convincing evidence that the defendant violated the state or federal statute~~  
10 ~~or regulation.~~

11 **13-21-505. Applicability of this part 5.** Nothing contained in this  
12 part 5 shall be construed to bar recovery where the plaintiff proves that  
13 the proximate cause of the injury, damage, or death was a firearm or  
14 ammunition which contained a defect in manufacture causing it to be at  
15 variance from its design or which was designed so that it did not function  
16 in the manner reasonably expected by the ordinary consumer of such  
17 product.

18 **SECTION 3. Effective date - applicability.** (1) This act takes  
19 effect upon passage.

20 (2) (a) Sections 13-21-1204 and 13-21-1205, Colorado Revised  
21 Statutes, as enacted in section 1 of this act, apply to causes of action  
22 arising on or after said date.

23 (b) Sections 13-21-1206 and 13-21-1207, Colorado Revised  
24 Statutes, as enacted in section 1 of this act, apply to causes of actions  
25 relating to assault weapons manufactured, sold, or transferred on or after  
26 September 1, 2013.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.