

An Act

HOUSE BILL 00-1208

BY REPRESENTATIVES Clapp, Berry, Dean, Decker, Fairbank, Hefley, Hoppe, Johnson, King, Larson, Lee, May, McKay, Nuñez, Paschall, Scott, Sinclair, Spence, Spradley, Taylor, Witwer, Young, Alexander, McElhany, Miller, Stengel, Tochtrop, Webster, and T. Williams;
also SENATORS Teck, Andrews, Arnold, Chlouber, Congrove, Epps, Evans, Hillman, Lacy, Lamborn, Musgrave, Owen, Powers, and Tebedo.

CONCERNING LIMITATIONS ON CIVIL ACTIONS REGARDING FIREARMS.

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

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

13-21-504.5. Limitations on actions - award of fees. (1) A PERSON OR OTHER PUBLIC OR PRIVATE ENTITY MAY NOT BRING AN ACTION IN TORT, OTHER THAN A PRODUCT LIABILITY ACTION, AGAINST A FIREARMS OR AMMUNITION MANUFACTURER, IMPORTER, OR DEALER FOR ANY REMEDY ARISING FROM PHYSICAL OR EMOTIONAL INJURY, PHYSICAL DAMAGE, OR DEATH CAUSED BY THE DISCHARGE OF A FIREARM OR AMMUNITION.

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

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

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

SECTION 2. 13-21-501, Colorado Revised Statutes, is amended to read:

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

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

PERSON.

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

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

Russell George
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Ray Powers
PRESIDENT OF
THE SENATE

Judith M. Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Patricia K. Dicks
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO