

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0822
Prime Sponsor(s): Sen. Morse
 Rep. Fields

Date: June 5, 2013
Bill Status: Deemed Lost
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TITLE: CONCERNING THE "ASSAULT WEAPON RESPONSIBILITY ACT".

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	Minimal increase. See State Expenditures section.	
FTE Position Change		
Effective Date: The bill was laid over until May 10, 2013, by the Senate during second reading on March 8, 2013. As such, the bill was deemed lost.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See the Local Government Impact section.		

Summary of Legislation

This bill establishes civil liability for damages caused by assault weapons in certain situations. An assault weapon is defined as any firearm other than a handgun, shotgun, or bolt-action rifle. Under the bill, in most circumstances, a person who uses, owns, or possesses an assault weapon is strictly liable for all injuries and damages resulting from its discharge. Persons are authorized to surrender an assault weapon to a local law enforcement agency for disposal or to a licensed firearms dealer for resale or disposal. Local law enforcement agencies and licensed firearms dealers are authorized to charge fees to cover the direct and indirect costs of disposal. The person who surrendered the weapon is required to keep a record of the transaction.

The bill repeals current statutes that limit the liability of manufacturers, importers, and dealers of firearms and ammunition in civil actions. However, certain parties are exempt from liability for the discharge of an assault weapon, including peace officers and members of the armed forces acting in their official capacity; state and local governmental agencies; and a business that is transferring an assault weapon to a military or law enforcement agency.

Beginning September 1, 2013, a person who sells or transfers an assault weapon may be liable for injuries and damages resulting from their discharge if certain conditions are met. A person who is a seller, distributor, or manufacturer is also liable for injuries and damages if the weapon was sold or transferred in knowing violation of any state or federal law and was the proximate cause of the injuries or damages.

Table 1, below, describes the changes in liability and the associated affirmative defenses under the bill.

Table 1. Civil Actions and Defenses Created by SB13-196		
Liable Party	Liability	Affirmative Defenses
<i>Persons (dischargers in general)</i>	Strict liability for injuries and damages from discharge of an assault weapon by the person.	<ul style="list-style-type: none"> • Self-defense within a dwelling. • Defense of another occupant within a dwelling.
<i>Owners and possessors of assault weapons</i>	Liability for injuries and damages from discharge of an assault weapon by a third party if the weapon was: <ul style="list-style-type: none"> • negligently stored; or • negligently transferred. 	<ul style="list-style-type: none"> • Surrender of the weapon to an authorized recipient. • The weapon was stolen despite specific efforts to secure it safely.
<i>Dealers, sellers, and other transferrors</i>	Liability for injuries and damages from discharge of an assault weapon by a third party if the transferrer: <ul style="list-style-type: none"> • negligently entrusts a third party with the weapon, being aware that assault weapons are likely to be used for unlawful purposes; or • knowingly violates state or federal law in transferring the weapon, and the violation causes the injuries or damages. 	
<i>Sellers, distributors, and manufacturers</i>	Liability for injuries and damages from discharge of an assault weapon by a third party if the seller, distributor, or manufacturer knowingly violates state or federal law in transferring the weapon, and the violation causes the injuries or damages. Violation of state law under the bill includes the failure of a seller, distributor, or manufacturer to: <ul style="list-style-type: none"> • exercise the highest degree of care in transferring, distributing, and storing assault weapons; or • receive sufficient information to reasonably believe that the weapon will not be possessed or used by a person who may use it unsafely or unlawfully. 	

State Expenditures

Overall, the bill is estimated to increase workload in the Judicial Branch beginning in FY 2013-14, as described below.

The bill creates new causes of action for the liability of persons discharging an assault weapon, and for owners, sellers, and manufacturers of assault weapons. In addition, the bill repeals limitations on actions against certain other parties, such as manufacturers of ammunition. However, the number of new cases is expected to be limited, as parties injured by gunfire may currently attempt to recover civil damages under an alternate theory of liability, including certain product liability claims allowed by current law. Therefore, the fiscal note assumes that the bill results in new cases primarily in the context of criminal misuse of guns defined as assault weapons, and that the requirement of a discharge causing injury significantly limits the number of cases that may be brought under the bill. Such injuries are reported in substantially fewer than 100 cases in the state each year.

Workload of the trial courts will increase to accommodate new claims under the bill. However, no new appropriations are required, as current numbers of judicial officers and support staff can absorb 100 new cases statewide. In addition, the appellate courts may review this legislation in some fraction of those cases adjudicated by the trial courts. As it is unknown when such appeals will occur, the increase in appellate cases is assumed not to require new appropriations.

Local Government Impact

The bill increases the revenue and expenditures for local government law enforcement agencies, particularly municipal police departments and sheriff's offices.

Law enforcement agency workload and costs increase to investigate reports of stolen assault weapons, to issue written receipts when assault weapons are surrendered to the agency, and to store or otherwise dispose of surrendered weapons. Each of these activities is expected to increase under the bill as individual assault weapon owners seek protection from liability. Without available data on the number of assault weapons or number of owners of such weapons in the state, the fiscal note does not estimate the number of surrenders that will occur statewide or in any particular local jurisdiction. These costs will vary by jurisdiction.

Fees authorized by the bill and charged by the local law enforcement agency to individuals surrendering a weapon are assumed to cover any costs not otherwise budgeted by the local government. This revenue is assessed at the discretion of the local government and will vary from jurisdiction to jurisdiction.

Departments Contacted

Judicial
Corrections
Law

Public Safety
Local Affairs

Municipalities
Human Services

Counties
Revenue