

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0119.01 Jane Ritter x4342

SENATE BILL 23-168

SENATE SPONSORSHIP

Jaquez Lewis and Kolker, Cutter, Danielson, Fields, Marchman, Sullivan, Coleman, Fenberg, Gonzales, Hansen, Moreno, Rodriguez, Winter F.

HOUSE SPONSORSHIP

Mabrey and Parenti, Bacon, Dickson, Epps, Garcia, Jodeh, Kipp, Titone, Vigil

Senate Committees

State, Veterans, & Military Affairs

House Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING GUN VIOLENCE VICTIMS' ACCESS TO THE JUDICIAL**
102 **SYSTEM.**

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://leg.colorado.gov>.)

Current law limits product liability actions against manufacturers of firearms and ammunition to situations in which there was a defect in the design or manufacture of a firearm or ammunition. The bill repeals that limitation.

The bill defines the terms "firearm industry member" (industry member) and "firearm industry product" (industry product) and requires

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
March 25, 2023

SENATE
3rd Reading Unamended
March 13, 2023

SENATE
2nd Reading Unamended
March 10, 2023

1 WELL-BEING OF COLORADO RESIDENTS;

2 (c) OUR STATE AND OUR NATION HAVE A LONG-STANDING
3 HISTORICAL TRADITION OF PRESCRIBING STANDARDS OF RESPONSIBLE
4 CONDUCT AND ACCOUNTABILITY FOR INDUSTRIES WHOSE BUSINESS
5 PRACTICES MAY CAUSE HARM TO THE PUBLIC;

6 (d) THE FEDERAL "PROTECTION OF LAWFUL COMMERCE IN ARMS
7 ACT" PRESERVES STATES' CRITICAL AUTHORITY TO ENACT LAWS
8 PRESCRIBING AND ENFORCING STANDARDS OF RESPONSIBLE CONDUCT AND
9 ACCOUNTABILITY FOR FIREARM INDUSTRY MEMBERS;

10 (e) IT IS THE POLICY OF THIS STATE THAT FIREARM INDUSTRY
11 MEMBERS HAVE A LAWFUL DUTY AND RESPONSIBILITY TO TAKE
12 REASONABLE PRECAUTIONS TO PREVENT FORESEEABLE RISKS TO LIFE,
13 HEALTH, SAFETY, AND WELL-BEING OF THE CITIZENS OF COLORADO; AND

14 (f) IT IS FURTHER THE POLICY OF THIS STATE THAT VICTIMS
15 HARMED BY FIREARM INDUSTRY MEMBERS' WRONGFUL AND UNLAWFUL
16 CONDUCT, AND PUBLIC OFFICIALS ACTING ON BEHALF OF THE PEOPLE OF
17 COLORADO, SHALL NOT BE BARRED FROM PURSUING CIVIL ACTIONS
18 SEEKING APPROPRIATE JUSTICE AND FAIR REMEDIES FOR THOSE HARMS IN
19 COURT, INCLUDING CIVIL ACTIONS FOR HARMS CAUSED BY NEGLIGENT
20 ENTRUSTMENT OF FIREARM INDUSTRY PRODUCTS, CONSISTENT WITH ANY
21 LIMITATIONS OR IMMUNITIES OTHERWISE PROVIDED IN STATE OR FEDERAL
22 LAW.

23 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
24 THE POLICY OF THIS STATE THAT PRODUCT LIABILITY FOR INJURY,
25 DAMAGE, OR DEATH CAUSED BY THE DISCHARGE OF A FIREARM OR
26 AMMUNITION IS NOT BASED UPON THE INHERENT POTENTIAL OF A FIREARM
27 TO CAUSE INJURY, DAMAGE, OR DEATH WHEN DISCHARGED. IT SHALL BE

1 THE FURTHER POLICY OF THIS STATE THAT A CIVIL ACTION IN TORT FOR
2 ANY REMEDY ARISING FROM PHYSICAL OR EMOTIONAL INJURY, PHYSICAL
3 DAMAGE, OR DEATH CAUSED BY THE DISCHARGE OF A FIREARM IS NOT
4 BASED UPON THE INHERENT POTENTIAL OF A FIREARM TO CAUSE INJURY,
5 DAMAGE, OR DEATH WHEN DISCHARGED.

6 **6-27-103. Definitions.** AS USED IN THIS ARTICLE 27, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "FIREARM INDUSTRY MEMBER" MEANS A PERSON, FIRM,
9 CORPORATION, OR ANY OTHER ENTITY ENGAGED IN THE MANUFACTURE,
10 DISTRIBUTION, IMPORTATION, MARKETING, OR WHOLESALE OR RETAIL
11 SALE OF A FIREARM INDUSTRY PRODUCT.

12 (2) "FIREARM INDUSTRY PRODUCT" MEANS:

13 (a) A FIREARM, AS DEFINED IN SECTION 18-1-901;

14 (b) AMMUNITION;

15 (c) A COMPLETED OR UNFINISHED FRAME OR RECEIVER;

16 (d) A FIREARM COMPONENT OR MAGAZINE;

17 (e) A DEVICE MARKETED OR SOLD TO THE PUBLIC THAT IS
18 DESIGNED OR ADAPTED TO BE INSERTED INTO, AFFIXED ONTO, OR USED IN
19 CONJUNCTION WITH A FIREARM, IF THE DEVICE IS:

20 (I) REASONABLY DESIGNED OR INTENDED TO BE USED TO INCREASE
21 A FIREARM'S RATE OF FIRE, CONCEALABILITY, MAGAZINE CAPACITY, OR
22 DESTRUCTIVE CAPACITY; OR

23 (II) REASONABLY DESIGNED OR INTENDED TO INCREASE THE
24 FIREARM'S STABILITY AND HANDLING WHEN THE FIREARM IS REPEATEDLY
25 FIRED; AND

26 (f) ANY MACHINE OR DEVICE THAT IS MARKETED OR SOLD TO THE
27 PUBLIC, OR REASONABLY DESIGNED OR INTENDED TO BE USED TO

1 MANUFACTURE OR PRODUCE A FIREARM OR ANY OTHER FIREARM
2 INDUSTRY PRODUCT AS DESCRIBED IN THIS SUBSECTION (2).

3 (3) "FIREARM TRAFFICKER" MEANS A PERSON WHO ACQUIRES,
4 TRANSFERS, OR ATTEMPTS TO ACQUIRE OR TRANSFER A FIREARM INDUSTRY
5 PRODUCT FOR PURPOSES OF UNLAWFUL COMMERCE, INCLUDING, BUT NOT
6 LIMITED TO, A SUBSEQUENT TRANSFER TO A PERSON WHO IS PROHIBITED
7 BY STATE OR FEDERAL LAW FROM POSSESSING THE FIREARM INDUSTRY
8 PRODUCT.

9 (4) "REASONABLE CONTROLS" MEANS REASONABLE PROCEDURES,
10 SAFEGUARDS, AND BUSINESS PRACTICES THAT ARE DESIGNED AND
11 IMPLEMENTED TO DO ALL OF THE FOLLOWING:

12 (a) PREVENT THE SALE OR DISTRIBUTION OF A FIREARM INDUSTRY
13 PRODUCT TO:

14 (I) A STRAW PURCHASER OR FIREARM TRAFFICKER;

15 (II) A PERSON WHO IS PROHIBITED BY STATE OR FEDERAL LAW
16 FROM POSSESSING A FIREARM INDUSTRY PRODUCT; OR

17 (III) A PERSON THE FIREARM INDUSTRY MEMBER HAS REASONABLE
18 CAUSE TO BELIEVE IS AT SUBSTANTIAL RISK OF USING A FIREARM
19 INDUSTRY PRODUCT TO HARM THEMSELVES OR UNLAWFULLY HARM
20 ANOTHER OR OF OTHERWISE UNLAWFULLY POSSESSING OR USING A
21 FIREARM INDUSTRY PRODUCT;

22 (b) PREVENT THE LOSS OR THEFT OF A FIREARM INDUSTRY
23 PRODUCT FROM A FIREARM INDUSTRY MEMBER;

24 (c) ENSURE THE FIREARM INDUSTRY MEMBER DOES NOT PROMOTE
25 OR FACILITATE THE UNLAWFUL MANUFACTURE, SALE, POSSESSION,
26 MARKETING, OR USE OF A FIREARM INDUSTRY PRODUCT; AND

27 (d) ENSURE THE FIREARM INDUSTRY MEMBER COMPLIES WITH ALL

1 PROVISIONS OF STATE AND FEDERAL LAWS.

2 (5) "STRAW PURCHASER" MEANS AN INDIVIDUAL WHO
3 WRONGFULLY PURCHASES OR OBTAINS A FIREARM INDUSTRY PRODUCT ON
4 BEHALF OF A THIRD PARTY WHO IS THE ACTUAL PURCHASER OR
5 TRANSFEREE. THE TERM "STRAW PURCHASER" DOES NOT APPLY TO AN
6 INDIVIDUAL OBTAINING A FIREARM INDUSTRY PRODUCT AS A BONA FIDE
7 GIFT FOR A PERSON WHO IS NOT PROHIBITED BY STATE OR FEDERAL LAW
8 FROM POSSESSING OR RECEIVING A FIREARM INDUSTRY PRODUCT. FOR THE
9 PURPOSES OF THIS SUBSECTION (5), A GIFT IS NOT A BONA FIDE GIFT IF THE
10 TRANSFEREE HAS OFFERED OR GIVEN THE TRANSFEROR A SERVICE OR
11 THING OF VALUE TO ACQUIRE THE FIREARM INDUSTRY PRODUCT ON THE
12 TRANSFEREE'S BEHALF.

13 (6) "UNFINISHED FRAME OR RECEIVER" MEANS ANY FORGING,
14 CASTING PRINTING, EXTRUSION, MACHINED BODY, OR SIMILAR ARTICLE
15 THAT HAS REACHED A STAGE IN MANUFACTURE WHEN IT MAY BE READILY
16 COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR
17 RECEIVER OF A FUNCTIONAL FIREARM OR THAT IS MARKETED OR SOLD TO
18 THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A
19 FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED.

20 **6-27-104. Firearm industry standards of responsible conduct.**

21 (1) THIS SECTION APPLIES TO A FIREARM INDUSTRY MEMBER ENGAGED IN
22 THE MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, OR
23 WHOLESALE OR RETAIL SALE OF A FIREARM INDUSTRY PRODUCT THAT
24 MEETS ANY OF THE FOLLOWING CONDITIONS:

25 (a) THE FIREARM INDUSTRY PRODUCT WAS SOLD, MADE,
26 DISTRIBUTED, OR MARKETED IN THIS STATE;

27 (b) THE FIREARM INDUSTRY PRODUCT WAS INTENDED TO BE SOLD,

1 MADE, DISTRIBUTED, OR MARKETED IN THIS STATE; OR

2 (c) THE FIREARM INDUSTRY PRODUCT WAS USED OR POSSESSED IN
3 THIS STATE, AND IT WAS REASONABLY FORESEEABLE THAT THE PRODUCT
4 WOULD BE USED OR POSSESSED IN THIS STATE.

5 (2) A FIREARM INDUSTRY MEMBER SHALL:

6 (a) ESTABLISH AND IMPLEMENT REASONABLE CONTROLS
7 REGARDING ITS MANUFACTURE, DISTRIBUTION, IMPORTATION,
8 MARKETING, AND WHOLESALE OR RETAIL SALE OF FIREARM INDUSTRY
9 PRODUCTS IN THIS STATE; AND

10 (b) TAKE REASONABLE PRECAUTIONS TO ENSURE THE FIREARM
11 INDUSTRY MEMBER DOES NOT SELL OR DISTRIBUTE A FIREARM INDUSTRY
12 PRODUCT TO A DISTRIBUTOR OR RETAILER OF FIREARM INDUSTRY
13 PRODUCTS THAT FAILS TO ESTABLISH AND IMPLEMENT REASONABLE
14 CONTROLS.

15 (3) A FIREARM INDUSTRY MEMBER SHALL NOT MANUFACTURE,
16 DISTRIBUTE, IMPORT, MARKET, OR OFFER FOR WHOLESALE OR RETAIL SALE
17 A FIREARM INDUSTRY PRODUCT THAT IS:

18 (a) DESIGNED, SOLD, OR MARKETED IN A MANNER THAT
19 FORESEEABLY PROMOTES CONVERSION OF A LEGAL FIREARM INDUSTRY
20 PRODUCT INTO AN ILLEGAL FIREARM INDUSTRY PRODUCT; OR

21 (b) DESIGNED, SOLD, OR MARKETED IN A MANNER THAT IS
22 TARGETED AT MINORS OR INDIVIDUALS WHO ARE LEGALLY PROHIBITED
23 FROM PURCHASING OR POSSESSING A FIREARM.

24 (4) IN ADDITION TO SUBSECTIONS (1) TO (3) OF THIS SECTION, A
25 FIREARM INDUSTRY MEMBER SHALL COMPLY WITH THE FOLLOWING LAWS
26 WHEN ENGAGED IN THE MANUFACTURE, DISTRIBUTION, IMPORTATION,
27 MARKETING, OR WHOLESALE OR RETAIL SALE OF A FIREARM INDUSTRY

1 PRODUCT:

2 (a) THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF
3 THIS TITLE 6;

4 (b) THE "UNFAIR PRACTICES ACT", ARTICLE 2 OF THIS TITLE 6;

5 (c) THE "COLORADO ANTITRUST ACT OF 1992", ARTICLE 4 OF THIS
6 TITLE 6; AND

7 (d) ARTICLE 12 OF TITLE 18.

8 **6-27-105. Cause of action for violations of standards of
9 responsible conduct.** (1) A PERSON OR ENTITY THAT HAS SUFFERED

10 HARM AS A RESULT OF A FIREARM INDUSTRY MEMBER'S ACTS OR
11 OMISSIONS IN VIOLATION OF SECTION 6-27-104 MAY BRING A CIVIL ACTION
12 PURSUANT TO THIS ARTICLE 27 IN A COURT OF COMPETENT JURISDICTION.

13 (2) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S
14 DESIGNEE, MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT
15 JURISDICTION TO ENFORCE THIS ARTICLE 27 AND REMEDY HARMS CAUSED
16 BY ANY ACTS OR OMISSIONS IN VIOLATION OF SECTION 6-27-104.

17 (3) IN AN ACTION BROUGHT PURSUANT TO THIS SECTION, IF THE
18 COURT DETERMINES THAT A FIREARM INDUSTRY MEMBER ENGAGED IN
19 CONDUCT IN VIOLATION OF SECTION 6-27-104, THE COURT SHALL AWARD
20 JUST AND APPROPRIATE RELIEF, WHICH MAY INCLUDE BUT IS NOT LIMITED
21 TO:

22 (a) INJUNCTIVE RELIEF SUFFICIENT TO PREVENT THE FIREARM
23 INDUSTRY MEMBER AND ANY OTHER DEFENDANT FROM FURTHER
24 VIOLATING THIS ARTICLE 27;

25 (b) COMPENSATORY AND PUNITIVE DAMAGES;

26 (c) REASONABLE ATTORNEY FEES, FILING FEES, AND REASONABLE
27 COSTS OF ACTION; AND

1 (d) ANY OTHER JUST AND APPROPRIATE RELIEF NECESSARY TO
2 ENFORCE THIS ARTICLE 27 AND REMEDY THE HARM CAUSED BY THE
3 VIOLATION.

4 (4) IN AN ACTION BROUGHT PURSUANT TO THIS ARTICLE 27, AND
5 NOTWITHSTANDING ANY INTERVENING ACT BY A THIRD PARTY, IF A
6 FIREARM INDUSTRY MEMBER'S KNOWING VIOLATION OF THIS ARTICLE 27
7 CREATES A REASONABLY FORESEEABLE RISK THAT HARM WOULD OCCUR,
8 THE FIREARM INDUSTRY MEMBER'S VIOLATION IS PRESUMED TO BE THE
9 PROXIMATE CAUSE OF THE HARM SUFFERED BY THE PLAINTIFF.

10 (5) AN ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE
11 COMMENCED WITHIN FIVE YEARS AFTER THE DATE THAT THE VIOLATION
12 OCCURRED OR THE HARM WAS INCURRED.

13 (6) A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MAY BE
14 BROUGHT IN:

15 (a) THE COUNTY IN WHICH ALL OR A SUBSTANTIAL PART OF THE
16 EVENTS OR OMISSIONS GIVING RISE TO THE CLAIM OCCURRED;

17 (b) THE COUNTY OF RESIDENCE OF ANY ONE OF THE NATURAL
18 PERSON DEFENDANTS AT THE TIME THE CAUSE OF ACTION ACCRUED;

19 (c) THE COUNTY OF THE PRINCIPAL OFFICE IN THIS STATE OF ANY
20 OF THE DEFENDANTS THAT IS NOT A NATURAL PERSON; OR

21 (d) THE COUNTY OF RESIDENCE FOR THE PLAINTIFF IF THE
22 PLAINTIFF IS A NATURAL PERSON RESIDING IN COLORADO.

23 **6-27-106. Limitations.** (1) NOTHING IN THIS ARTICLE 27 LIMITS
24 OR IMPAIRS IN ANY WAY THE RIGHT OF THE ATTORNEY GENERAL, OR ANY
25 PERSON OR ENTITY, TO PURSUE A LEGAL ACTION PURSUANT TO ANY OTHER
26 LAW, CAUSE OF ACTION, TORT THEORY, OR OTHER AUTHORITY.

27 (2) NOTHING IN THIS ARTICLE 27 LIMITS OR IMPAIRS IN ANY WAY

1 AN OBLIGATION OR REQUIREMENT PLACED ON A FIREARM INDUSTRY
2 MEMBER BY ANY OTHER AUTHORITY.

3 (3) THIS ARTICLE 27 MUST BE CONSTRUED AND APPLIED IN A
4 MANNER THAT IS CONSISTENT WITH THE REQUIREMENTS OF THE
5 CONSTITUTIONS OF COLORADO AND THE UNITED STATES.

6 **SECTION 3. Severability.** If any provision of this act or the
7 application thereof to any person or circumstance is held invalid, such
8 invalidity does not affect other provisions or applications of the act that
9 can be given effect without the invalid provision or application, and to
10 this end, the provisions of this act are declared to be severable.

11 **SECTION 4. Effective date.** This act takes effect October 1,
12 2023.

13 **SECTION 5. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.