



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4462/1
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2021 ASSEMBLY BILL 572

September 22, 2021 - Introduced by Representatives MAGNAFICI, ARMSTRONG, BRANDTJEN, CABRAL-GUEVARA, EDMING, GUNDRUM, HORLACHER, JAMES, KNODL, MOSES, PENTERMAN, PRONSCHINSKE, SCHRAA, SKOWRONSKI, SORTWELL, SPIROS, TITTL, WICHGERS and BROOKS, cosponsored by Senators BRADLEY, FELZKOWSKI, NASS and STROEBEL. Referred to Committee on Judiciary.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to create** 895.5268 of the statutes; **relating to:** limiting civil liability for
2 firearm, firearm accessory, and ammunition manufacturers, distributors,
3 importers, trade associations, sellers, and dealers.

Analysis by the Legislative Reference Bureau

This bill provides a limitation on liability for firearm, firearm accessory, and ammunition manufacturers, distributors, importers, trade associations, sellers, and dealers. Under the bill, a person may not bring or maintain an action against a firearm, firearm accessory, or ammunition manufacturer, importer, distributor, trade association, seller, or dealer for 1) recovery of damages resulting from or injunctive relief or abatement of a nuisance relating to the lawful design, manufacture, marketing, or sale of a firearm, firearm accessory, or ammunition or 2) recovery of damages resulting from the criminal or unlawful use of a firearm, firearm accessory, or ammunition by a third party.

The bill provides that a person is not prohibited from bringing or maintaining an action against these types of manufacturers, importers, distributors, trade associations, sellers, or dealers for 1) breach of contract or warranty concerning firearms, firearms accessories, or ammunition purchased; 2) injunctive relief to enforce a valid statute, rule, or ordinance, except for actions otherwise barred under the bill; or 3) death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product when it is used as intended or in a reasonably foreseeable manner. With regard to actions for death, physical injuries, or property damage resulting directly from a defect in design or manufacture, the bill

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includes an exception that where the discharge of the product was caused by a volitional criminal act, then the criminal act is to be considered the sole proximate cause of any resulting death, personal injuries, or property damage.

If a court finds that a person has brought an action under a theory prohibited under the bill, the court must dismiss the claim or action and award the defendant reasonable attorney fees and costs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.5268 of the statutes is created to read:

2 **895.5268 Firearms, firearms accessories, and ammunition; limitations**
3 **on civil liability.** (1) In this section:

4 (a) “Ammunition” means a projectile or cartridge case, primer, bullet, or
5 propellant powder designed for use in a firearm.

6 (b) “Firearm” has the meaning given in s. 167.31 (1) (c).

7 (c) “Firearm accessory” means a device designed or adapted to enable the
8 wearing or carrying about one’s person, or the storage or mounting in or on a
9 conveyance, of a firearm or an attachment or device designed or adapted to be
10 inserted into or affixed onto a firearm to enable, alter, or improve the functioning or
11 capabilities of a firearm.

12 (d) “Trade association” means a corporation, unincorporated association,
13 federation, business league, or professional or business organization not organized
14 or operated for profit that meets all of the following criteria:

15 1. No part of its net earnings inures to the benefit of any private shareholder
16 or individual.

17 2. It is an organization described in 26 USC 501 (c) (6) and exempt from tax
18 under section 26 USC 501 (a).

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1 3. Two or more of its members are manufacturers or sellers of ammunition,
2 firearms, or firearms accessories.

3 **(2)** A person may not bring or maintain an action against a firearm, firearm
4 accessory, or ammunition manufacturer, importer, distributor, trade association,
5 seller, or dealer for any of the following:

6 (a) Recovery of damages resulting from or injunctive relief or abatement of a
7 nuisance, statutory or in common law, relating to the lawful design, manufacture,
8 marketing, or sale of a firearm, firearm accessory, or ammunition.

9 (b) Recovery of damages resulting from the criminal or unlawful use of a
10 firearm, firearm accessory, or ammunition by a 3rd party. All defenses allowed under
11 s. 895.047 (3) are available in actions under this section.

12 **(3)** Notwithstanding s. 802.05 (3), if a court finds that a party has brought an
13 action under a theory of recovery prohibited under this section, the finding
14 constitutes conclusive evidence that the action is frivolous, and the court shall
15 dismiss the claim or action and, notwithstanding s. 814.04 (1), award to the
16 defendant any reasonable attorney fees and costs incurred in defending against the
17 claim or action.

18 **(4)** Nothing in this section prohibits a person from bringing or maintaining an
19 action against a firearm, firearm accessory, or ammunition manufacturer, importer,
20 distributor, trade association, seller, or dealer for any of the following:

21 (a) Breach of contract or warranty concerning firearms, firearms accessories,
22 or ammunition purchased by a person.

23 (b) Death, physical injuries, or property damage resulting directly from a defect
24 in design or manufacture of the product when the product is used as intended or in
25 a reasonably foreseeable manner, except that where the discharge of the product was

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SECTION 1

1 caused by a volitional act that constituted a criminal offense, then such act shall be
2 considered the sole proximate cause of any resulting death, personal injuries, or
3 property damage.

4 (c) Injunctive relief to enforce a valid statute, rule, or ordinance, except that a
5 person may not bring an action seeking injunctive relief if that action is barred under
6 sub. (2).

7 (END)