

1999 DRAFTING REQUEST

Bill

Received: **02/18/99**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Matt Phillips & Don Nelson**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Liability for injuries caused by manufactured firearms

Instructions:

See 99-2197 and Georgia's act HB 189, prohibit state, and locals from suing and create immunity against individual suits, except for defective products, contracts

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 02/23/99	chanaman 02/24/99		_____			
/P1			martykr 02/24/99	_____	lrb_docadmin 02/24/99		
/1	nelsorp1 02/25/99	chanaman 02/26/99	martykr 02/26/99	_____	lrb_docadmin 02/26/99	lrb_docadmin 03/8/99	

FE Sent For:

*No +
Needed*

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Topic:

Comments made by Don N. 2/24

Liability for injuries caused by manufactured firearms

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/?	nelsorp1 02/23/99	chanaman 02/24/99		_____			
/P1		<i>cmh</i> <i>2/24</i>	martykr 02/24/99	_____	lrb_docadmin 02/24/99		

FE Sent For:

h
dm 2/24

<END>

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Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Matt Phillips & Don Nelson

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - immunity liability

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Liability for injuries caused by manufactured firearms

Instructions:

See 99-2197 and Georgia's act HB 189, prohibit state, and locals from suing and create immunity against individual suits, except for defective products, contracts

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	nelsorp1	cmr /p1 2/24	jm/24	ds /cm/24	Submitted		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **02/18/99**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Assembly Republican Caucus** (*Pettis*)

By/Representing: **Matt Phillips**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact: *Don Nelson*

Alt. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

*Matt Phillips says switch to Pettis
Pettis said switch to Pettis*

Liability for injuries caused by manufactured firearms

Instructions:

See 99-2217 and Georgia's act HB 189, prohibit state, and locals from suing and create immunity against individual suits

*But not preclude suits for defective products
2197*

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1						

FE Sent For:

<END>

Nelson, Robert

From: Phillips, Matt
Sent: Thursday, February 18, 1999 11:26 AM
To: Nelson, Robert

Here is where I found the text of the Georgia bill. I am not sure whether or not this was amended. When a draft is completed, please send it to the ARC attention me. If you have any questions, please contact me at 267-0901.

http://www2.state.ga.us/Legis/1999_00/leg/fulltext/hb189.htm

Matt Phillips
Assembly Republican Caucus



[Legislation](#) [Clerk's Office](#) [Members](#) [Committees](#) [Meetings](#) [Home](#) [Senate](#)



Georgia House of Representatives

HB 189 - Firearms; certain civil actions; reserve right to state

[Jenkins, Curtis S \(110th\)](#) [Smith, Larry \(109th\)](#) [Twiggs, Ralph \(8th\)](#)

[Walker, Larry \(141st\)](#) [Day, Jr., C. Burke \(153rd\)](#) [Lane, Robert \(146th\)](#)

Status Summary HC: PubS SC: Pub S FR: 01/25/99 LA: 02/09/99 Signed by Governor

First Reader Summary

A BILL to amend Code Section 16-11-184 of the Official Code of Georgia Annotated, relating to regulatory authority of local political subdivisions over firearms and limitations thereon, so as to reserve to the state the right to bring certain civil actions against firearms manufacturers, trade associations, and dealers; and for other purposes.

Page Numbers: [1](#) [2](#)

Recorded Votes

Vote # SV99-46	MOTION TO TABLE	2/05/99
Vote # SV99-50	MOTION TO REMOVE FROM THE TABL	2/08/99
Vote # SV99-57	ADOPTION OF AMEND BY THE SENAT	2/08/99
Vote # SV99-58	ADOPTION OF THE COMMITTEE SUBS	2/08/99
Vote # SV99-59	PASSAGE BY SUBSTITUTE	2/08/99
Vote # HV99-814	Frankl	01/29/99
Vote # HV99-815	Irvin	01/29/99
Vote # HV99-816	Joyce	01/29/99
Vote # HV99-817	Frankl	01/29/99
Vote # HV99-818	PASS	01/29/99

House	Action	Senate
1/25/99	Read 1st Time	2/1/99
1/26/99	Read 2nd Time	2/4/99
1/27/99	Favorably Reported	2/3/99
Sub	Committee Amend/Sub	Sub
1/29/99	Read 3rd Time	2/5/99
1/29/99	Passed/Adopted	2/8/99
CS	Comm/Floor Amend/Sub	CS
2/9/99	Amend/Sub Agreed To	
2/9/99	Sent to Governor	
2/9/99	Signed by Governor	
4	Act/Veto Number	

Version by LC Number

- [HB 189/AP](#) [Signed by Governor](#)
- [LC 25 1157](#) [As Introduced](#)
- [LC 25 1220S H](#) - Passed/Adopted (CS)
- [LC 25 1254S S](#) - Read 1st Time (CS)

HB 189

HB 189/AP

H. B. No. 189 (AS PASSED HOUSE AND SENATE)

By: Representatives Jenkins of the 110th, Smith of the 109th, Twiggs of the 8th, Walker of the 141st, Day of the 153rd and others

A BILL TO BE ENTITLED
AN ACT

1- 1 To amend Code Section 16-11-184 of the Official Code of
1- 2 Georgia Annotated, relating to regulatory authority of local
1- 3 political subdivisions over firearms and limitations
1- 4 thereon, so as to reserve to the state the right to bring
1- 5 certain civil actions against firearms or ammunition
1- 6 manufacturers, trade associations, and dealers; to provide
1- 7 legislative declarations; to provide for legislative intent;
1- 8 to provide for applicability; to provide an effective date;
1- 9 to repeal conflicting laws; and for other purposes.

1-10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1-11 SECTION 1.

1-12 Code Section 16-11-184 of the Official Code of Georgia
1-13 Annotated, relating to regulatory authority of local
1-14 political subdivisions over firearms and limitations
1-15 thereon, is amended by striking subsections (a) and (b) and
1-16 inserting in lieu thereof the following:

1-17 "(a) (1) It is declared by the General Assembly that the
1-18 regulation of firearms is properly an issue of general,
1-19 state-wide concern.

1-20 (2) The General Assembly further declares that the
1-21 lawful design, marketing, manufacture, or sale of
1-22 firearms or ammunition to the public is not unreasonably
1-23 dangerous activity and does not constitute a nuisance
1-24 per se.

1-25 (b) (1) No county or municipal corporation, by zoning or
1-26 by ordinance, resolution, or other enactment, shall
1-27 regulate in any manner gun shows, the possession,
1-28 ownership, transport, carrying, transfer, sale,
1-29 purchase, licensing, or registration of firearms,
1-30 components of firearms, firearms dealers, or dealers in
1-31 firearms components.

1-32 (2) The authority to bring suit and right to recover
1-33 against any firearms or ammunition manufacturer, trade

-1- 

2- 1 association, or dealer by or on behalf of any
2- 2 governmental unit created by or pursuant to an Act of
2- 3 the General Assembly or the Constitution, or any
2- 4 department, agency, or authority thereof, for damages,

2- 5 abatement, or injunctive relief resulting from or
2- 6 relating to the lawful design, manufacture, marketing,
2- 7 or sale of firearms or ammunition to the public shall be
2- 8 reserved exclusively to the state. This paragraph shall
2- 9 not prohibit a political subdivision or local government
2-10 authority from bringing an action against a firearms or
2-11 ammunition manufacturer or dealer for breach of contract
2-12 or warranty as to firearms or ammunition purchased by
2-13 the political subdivision or local government
2-14 authority."

2-15 SECTION 2.

2-16 The General Assembly intends that paragraph (2) of
2-17 subsection (a) of Code Section 16-11-184 as enacted by this
2-18 Act shall embrace the rule of law in Division 1 of Rhodes v.
2-19 R. G. Industries, Inc., 173 Ga. App. 51 (1984).

2-20 SECTION 3.

2-21 This Act shall apply to any action pending on or brought on
2-22 or after the date this Act becomes effective.

2-23 SECTION 4.

2-24 This Act shall become effective upon its approval by the
2-25 Governor or upon its becoming law without such approval.

2-26 SECTION 5.

2-27 All laws and parts of laws in conflict with this Act are
2-28 repealed.

-2- 

Clerk of the House
Robert E. Rivers, Jr., Clerk
Last Updated on 02/17/99



D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 AN ACT ^{refer cat.} to create ~~165.45~~ of the statutes; relating to: actions against
 2 manufacturers, ^{importers,} trade associations or dealers of firearms, ^{or firearms} ^{ammunition}

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

- 3 (b) SECTION 1. ^{895.45} ~~165.45~~ of the statutes is created to read: (b)
 4 ^{895.45} ~~165.45~~ Actions against firearm ^{or firearm ammunition} dealers or trade associations. (1) In this
 5 section: ^{firearm} (b)
 6 (b) (a) "Firearm" means a weapon that acts by force of gunpowder.
 7 (c) (b) "Firearm dealer" means any person engaged in the business of importing,
 8 manufacturing or dealing in firearms and having a license as an importer,
 9 manufacturer or dealer issued by the U.S. department of the treasury.
 10 (d) (a) "Firearm trade association" means a national or statewide trade association
 11 that derives income from membership dues of firearm dealers.

✓
Insert
1-5

(e)

(1) (d) "Political subdivision" means a city, village, town or county.

2 (2) The state, a political subdivision, and every department, division, board or
3 agency of the state or of a political subdivision, may not bring an action against a
4 firearm dealer, firearm trade association or a manufacturer, importer or dealer of
5 firearm ammunition for damages resulting from or injunctive relief relating to the
6 lawful design, manufacture, marketing or sale to the public of firearms or firearm
7 ammunition.

move
subsection

8 (3) → (4) The court shall dismiss any action commenced or pending *that is prohibited by* ~~in violation of~~
9 sub. (2).

10 (4) → (3) (4) Subsection (2) does not prohibit the state, a political subdivision, or a
11 department, division, board or agency of the state or of a political subdivision, from
12 bringing an action against a firearm dealer, firearm trade association or a
13 manufacturer, importer or dealer of firearm ammunition for breach of contract or
14 warranty as to firearms or firearm ammunition purchased by the state, a political
15 subdivision, or by a department, division, board or agency of the state or of a political
16 subdivision.

(END)

insert ✓
2-16

1 insert 1-5:

2 (a) "Defective" means failing to perform in a reasonably safe and suitable
3 manner the particular use for which the product was ^{manufactured} ~~created~~

4

5 insert 2-16:

6 (5) (a) A firearm dealer, firearm trade association ^{or} and a manufacturer,
7 importer or dealer of firearm ammunition is immune from civil liability in any action
8 brought by an individual for an injury caused by a firearm or by firearm ammunition.

9 (b) The immunity under par. (a) does not apply to an injury that was caused by
10 a defective firearm or defective firearm ammunition ^{or by a firearm or}

11 **SECTION 1. Initial applicability.**

12 (1) The treatment of section 895.45 (5) of the statutes first applies to actions
13 commenced on the effective date of this subsection.

→ a wilful or wanton disregard
for the safety of the
individual

D. Note:

91 I am not sure if any
reference is needed to "trade
associations". That phrase is used in
the Georgia law, but is it appropriate? RPN

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2271/P1dn
RPN:cmh:km

February 24, 1999

I am not sure if any reference is needed to "trade associations". That phrase is used in the Georgia law, but is it appropriate?

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{regen cat.} to create 895.45 of the statutes; relating to: actions against
2 manufacturers, importers, trade associations or dealers of firearms or firearm
3 ammunition.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

4 SECTION 1. 895.45 of the statutes is created to read:
5 **895.45 Actions against firearm or firearm ammunition dealers or**
6 **firearm trade associations. (1) In this section:**
7 (a) "Defective" means failing to perform in a reasonably safe and suitable
8 manner the particular use for which the product was manufactured.
9 (b) "Firearm" means a weapon that acts by force of gunpowder.

insert
and →

1 (c) "Firearm dealer" means any person engaged in the business of importing,
2 manufacturing or dealing in firearms and having a license as an importer,
3 manufacturer or dealer issued by the U.S. department of the treasury.

4 (d) "Firearm trade association" means a national or statewide trade association
5 that derives income from membership dues of firearm dealers.

6 (e) "Political subdivision" means a city, village, town or county.

7 (2) The state, a political subdivision, and every department, division, board or
8 agency of the state or of a political subdivision, may not bring an action against a
9 firearm dealer, firearm trade association or a manufacturer, importer or dealer of
10 firearm ammunition for damages resulting from or injunctive relief relating to the
11 lawful design, manufacture, marketing or sale to the public of firearms or firearm
12 ammunition.

13 (3) Subsection (2) does not prohibit the state, a political subdivision, or a
14 department, division, board or agency of the state or of a political subdivision, from
15 bringing an action against a firearm dealer, firearm trade association or a
16 manufacturer, importer or dealer of firearm ammunition for breach of contract or
17 warranty as to firearms or firearm ammunition purchased by the state, a political
18 subdivision, or by a department, division, board or agency of the state or of a political
19 subdivision.

20 (4) The court shall dismiss any action commenced or pending that is prohibited
21 by sub. (2).

22 (5) (a) A firearm dealer, firearm trade association or a manufacturer, importer
23 or dealer of firearm ammunition is immune from civil liability in any action brought
24 by an individual ^{or group} for an injury ^{or death} caused by a firearm or by firearm ammunition.

① (b) The immunity under par. (a) does not apply to an injury^{or death} that was caused by
2 a defective firearm or defective firearm ammunition or by a firearm or firearm
③ ammunition that was manufactured or sold ^{with} in a wilful or wanton disregard for the
④ safety of the individual^{or group}.

5 **SECTION 2. Initial applicability.**

6 (1) The treatment of section 895.45 (5) of the statutes first applies to actions
7 commenced on the effective date of this subsection.

8 (END)

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2271/1ins
RPN:cmh:km

insert anl:

9

This bill prohibits the state and cities, villages, towns and counties, and departments, divisions, boards and agencies of these units of government, from bringing an action against a person who imports, manufactures or deals in firearms or in firearm ammunition or against a firearm trade association for any damages or for injunctive relief relating to the lawful design, manufacture, marketing or sale of firearms or firearm ammunition. The bill does not prevent these units of government from suing the importers, manufacturers, dealers or trade associations for a breach of a warranty or contract for firearms or firearm ammunition purchased by the unit of government.

The bill also grants firearm importers, manufacturers, dealers and trade associations immunity from civil liability in any action brought by an individual or group for an injury or death caused by a firearm or by firearm ammunition. However, this immunity does not apply to an injury or death that was caused by a defective firearm or by defective firearm ammunition. In addition, the immunity does not apply if the injury or death was caused by a firearm or firearm ammunition that was manufactured or sold with a wilful or wanton disregard for the safety of the individual or group.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 2/26/99

To: Representative Pettis

Relating to LRB drafting number: LRB-2271

Topic

Liability for injuries caused by manufactured firearms

Subject(s)

Courts - immunity liability

1. **JACKET** the draft for introduction _____

in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511