

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 246**

January 27, 2000 – Offered by COMMITTEE ON JUDICIARY AND PERSONAL PRIVACY.

1 **AN ACT** *to create* 895.45 of the statutes; **relating to:** actions against sport
2 shooting range owners or operators, gun or sportsmen’s clubs and against
3 manufacturers, importers, trade associations or dealers of firearms, firearm
4 components or firearm ammunition.

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

5 **SECTION 1.** 895.45 of the statutes is created to read:

6 **895.45 Actions against sport shooting range owners or operators, gun**
7 **or sportsmen’s clubs or firearm or firearm ammunition dealers or firearm**
8 **trade associations. (1)** In this section:

9 (a) “Firearm” means a weapon that acts by force of gunpowder.

10 (b) “Firearm dealer” means any person engaged in the business of importing,
11 manufacturing or dealing in firearms or firearm components and having a license as
12 an importer, manufacturer or dealer issued by the U.S. department of the treasury.

1 (c) “Firearm trade association” means a national or statewide trade association
2 that derives income from membership dues of firearm dealers.

3 (d) “Local governmental unit” means a city, village, town, county or school
4 district.

5 (e) “Sport shooting range” has the meaning given in s. 895.527 (1).

6 **(2)** The state, a local governmental unit, and every department, division, board
7 or agency of the state or of a local governmental unit, may not bring an action or
8 proceeding against a firearm dealer, firearm trade association or a manufacturer,
9 importer or dealer of firearm ammunition for damages resulting from or injunctive
10 relief relating to the design, distribution, manufacture, marketing or sale of
11 firearms, firearm components or firearm ammunition or under any nuisance theory.

12 **(3)** Subsection (2) does not prohibit the state, a local governmental unit, or a
13 department, division, board or agency of the state or of a local governmental unit,
14 from bringing an action or proceeding against a firearm dealer, firearm trade
15 association or a manufacturer, importer or dealer of firearm ammunition:

16 (a) For breach of contract or warranty as to a firearm, firearm component or
17 firearm ammunition purchased by the state, a local governmental unit, or by a
18 department, division, board or agency of the state or of a local governmental unit.

19 (b) Related to a firearm, firearm component or firearm ammunition that was
20 designed, distributed, manufactured, marketed or sold in violation of a state or
21 federal law that could result in a criminal penalty or civil forfeiture. An action or
22 proceeding that is permitted under this paragraph may be brought only against a
23 person who violated a state or federal law that could result in a criminal penalty or
24 civil forfeiture and only if the harm giving rise to the action or proceeding was
25 proximately caused by the person’s violation of a state or federal law that could result

1 in a criminal penalty or civil forfeiture. The fact that a firearm, firearm component
2 or firearm ammunition was designed, distributed, manufactured or sold in violation
3 of a state or federal law that could result in a criminal penalty or civil forfeiture must
4 be shown by clear and convincing evidence.

5 **(4)** The court shall dismiss any action or proceeding commenced or pending
6 that is prohibited by sub. (2).

7 **(5) (a)** A firearm dealer, firearm trade association or a manufacturer, importer
8 or dealer of firearm ammunition, a gun or sportsmen's club or a sport shooting range
9 owner or operator is immune from civil liability in any action or proceeding brought
10 by an individual or group for an injury or death caused by a firearm, firearm
11 component or firearm ammunition.

12 **(b)** No injunctive relief may be granted against a firearm dealer, firearm trade
13 association or a manufacturer, importer or dealer of firearm ammunition, against a
14 gun or sportsmen's club or against a sport shooting range owner or operator in any
15 action or proceeding brought by an individual or group for an injury or death caused
16 by a firearm, a firearm component or firearm ammunition.

17 **(c)** The immunity under par. (a) does not apply to any of the following:

18 1. An injury or death caused by the negligent handling of a firearm, a firearm
19 component or firearm ammunition by an individual covered under par. (a) if, at the
20 time of the act or omission that constitutes the negligent handling, the individual is
21 in actual physical possession of the firearm, firearm component or firearm
22 ammunition.

23 2. An injury or death caused by a firearm, a firearm component or firearm
24 ammunition that an individual covered under par. (a) uses in violation of a state or
25 federal law that could result in a criminal penalty or civil forfeiture or that an

1 individual covered under par. (a) uses while committing another act that violates a
2 state or federal law that could result in a criminal penalty or civil forfeiture.

3 (d) The immunity under par. (a) and the prohibition under par. (b) do not apply
4 to any of the following:

5 1. An injury or death that was caused by a defect in the workmanship or
6 materials of a firearm, a firearm component or firearm ammunition.

7 2. An injury or death that was caused by a firearm, firearm component or
8 firearm ammunition that was manufactured or sold in violation of a state or federal
9 law that could result in a criminal penalty or civil forfeiture. An action or proceeding
10 that is permitted under this subdivision may be brought only against a person who
11 violated a state or federal law that could result in a criminal penalty or civil forfeiture
12 and only if the harm giving rise to the action or proceeding was proximately caused
13 by the person's violation of a state or federal law that could result in a criminal
14 penalty or civil forfeiture. The fact that the firearm, firearm component or firearm
15 ammunition was manufactured or sold in violation of a state or federal law that could
16 result in a criminal penalty or civil forfeiture must be shown by clear and convincing
17 evidence.

18 **SECTION 2. Initial applicability.**

19 (1) The treatment of section 895.45 (5) of the statutes first applies to actions
20 or proceedings commenced on the effective date of this subsection.

21 (END)