

**1999 DRAFTING REQUEST****Assembly Substitute Amendment (ASA-AB246)**

Received: 09/16/1999

Received By: nelsorp1

Wanted: Soon

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing:

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:**

Immunity for firearm manufacturers and dealers

**Instructions:**

See Attached

**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>
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/1			hhagen 09/17/1999	_____	lrb_docadmin 09/17/1999	lrb_docadmin 09/17/1999	
/2	nelsorp1 10/11/1999	chanaman 10/12/1999	jfrantze 10/12/1999	_____	lrb_docadmin 10/12/1999	lrb_docadmin 10/12/1999	
/3	nelsorp1 10/13/1999	chanaman 10/13/1999	mclark 10/13/1999	_____	lrb_docadmin 10/13/1999	lrb_docadmin 10/13/1999	
/4	olsenje	chanaman	martykr	_____	lrb_docadmin	lrb_docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/19/2000	01/19/2000	01/20/2000	_____	01/20/2000	01/20/2000	
/5	olsenje 01/24/2000	chanaman 01/24/2000 chanaman 01/25/2000	hhagen 01/24/2000	_____ _____ _____	lrb_docadmin 01/24/2000	lrb_docadmin 01/25/2000	
/6			kfollet 01/25/2000	_____ _____	lrb_docadmin 01/25/2000	lrb_docadmin 01/25/2000	

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/3	nelsorp1 10/13/1999	chanaman 10/13/1999	mclark 10/13/1999	_____	lrb_docadmin 10/13/1999	lrb_docadmin 10/13/1999	
/4	olsenje	chanaman	martykr	_____	lrb_docadmin	lrb_docadmin	

*Handwritten notes:*  
 cmst 1/5  
 1/24  
 1/24

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/19/2000	01/19/2000	01/20/2000	_____	01/20/2000	01/20/2000	

FE Sent For:

*cmh  
1/25  
vhs*

*Kjf  
1/25*

*Kjflch  
1/25  
<END>*

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/3	nelsorp1 10/13/1999	chanaman 10/13/1999	mclark 10/13/1999	_____	lrb_docadmin 10/13/1999	lrb_docadmin 10/13/1999	

*cmth  
1/4  
2/19*

*km 1/20*     *km 1/20*

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**<END>**

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Subject: **Courts - immunity liability**

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/2	nelsorp1 10/11/1999	chanaman 10/12/1999	jfrantze 10/12/1999	_____	lrb_docadmin 10/12/1999	lrb_docadmin 10/12/1999	

FE Sent For:

cmh  
10/13  
/3

MRC MRC/JF  
10/13 10/13  
<END>

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/1		cmv 10/12	hhagen 09/17/1999	_____	lrb_docadmin 09/17/1999	lrb_docadmin 09/17/1999	
FE Sent For:			10/12	10/12			

<END>



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1/?	nelsorp1	cmd 9/14 /1	ck 9/16	ck/JE 9/17			

FE Sent For:

<END>

9/15 Gundrum.

Wants a sub. to AB

246. Take a 0591, 0590

and 0588 plus add

sportsmen's clubs. Does

not want a 0589 included

Also wants to include

"factual distribution" to

p 2, 1. 11.



ASSEMBLY AMENDMENT ,  
TO 1999 ASSEMBLY BILL 246

- 1 At the locations indicated, amend the bill as follows:
- 2 ✓ 1. Page 2, line 8: after "firearms" insert "or firearm components".
- 3 ✓ 2. Page 2, line 17: after "firearms" insert ", firearm components".
- 4 ✓ 3. Page 3, line 2: after "firearms" insert ", firearm components".
- 5 ✓ 4. Page 3, line 9: after "by a firearm" insert ", by a firearm component".
- 6 ✓ 5. Page 3, line 12: after "a defective firearm" insert ", defective firearm
- 7 component".
- 8 *No* 6. Page 3, line 12: after "a firearm" insert ", firearm component".

9 (END)

soon (9/16)

1999 - 2000 LEGISLATURE

LRBs0123/7

D-Note

RPN.....  
cmn

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~  
**ASSEMBLY SUBSTITUTE AMENDMENT ,**  
**TO 1999 ASSEMBLY BILL 246**

1

**AN ACT...; relating to:???**

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

2

**(END)**

# 1999 ASSEMBLY BILL 246

March 25, 1999 - Introduced by Representatives PETTIS, SUDER, GUNDRUM, GUNDERSON, HUEBSCH, SPILLNER, LADWIG, MUSSER, AINSWORTH, HUNDERTMARK, SYKORA, GROTHMAN, HANDRICK, ALBERS, PORTER, KREIBICH, KEDZIE, SERATTI, F. LASEE, LEIBHAM, HUTCHISON, GRONEMUS, HAHN, OWENS, VRAKAS, JOHNSRUD and NASS, cosponsored by Senators BRESKE, ZIEN, WELCH, BAUMGART, SCHULTZ and FITZGERALD. Referred to Committee on Judiciary and Personal Privacy.

*reger cat*

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

---

### *Analysis by the Legislative Reference Bureau*

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

**ASSEMBLY BILL 246**

~~manufactured or sold with a wilful or wanton disregard for the safety of the individual or group.~~

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

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

2 **895.45 Actions against** <sup>(B) sport shooting range owners or operators or</sup> **firearm or firearm ammunition dealers or**

3 **firearm trade associations. (1) In this section:**

4 (a) "Defective" means failing to perform in a reasonably safe and suitable  
5 manner the particular use for which the product was manufactured.

6 (b) "Firearm" means a weapon that acts by force of gunpowder.

7 (c) "Firearm dealer" means any person engaged in the business of importing,  
8 manufacturing or dealing in firearms <sup>or firearm components</sup> and having a license as an importer,  
9 manufacturer or dealer issued by the U.S. department of the treasury.

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

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

13 (91) (f) <sup>(-)</sup> "sport shooting range" has the meaning given in s. 895.527(1). ✓

14 (2) The state, a political subdivision, and every department, division, board or  
15 agency of the state or of a political subdivision, may not bring an action against a  
16 firearm dealer, firearm trade association or a manufacturer, importer or dealer of  
17 firearm ammunition for damages resulting from or injunctive relief relating to the  
18 lawful design, <sup>lawful distribution,</sup> manufacture, marketing or sale to the public of firearms <sup>, firearm components</sup> or firearm  
ammunition.

19 (3) Subsection (2) does not prohibit the state, a political subdivision, or a  
20 department, division, board or agency of the state or of a political subdivision, from  
21 bringing an action against a firearm dealer, firearm trade association or a

ASSEMBLY BILL 246

1 manufacturer, importer or dealer of firearm ammunition for breach of contract or  
2 warranty as to firearms) <sup>firearm components</sup> or firearm ammunition purchased by the state, a political  
3 subdivision, or by a department, division, board or agency of the state or of a political  
4 subdivision.

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

7 (5) (a) A firearm dealer, firearm trade association or a manufacturer, importer  
8 or dealer of firearm ammunition <sup>or a sport shooting range owner or operator</sup> is immune from civil liability in any action brought  
9 by an individual or group for an injury or death caused by a firearm <sup>by a firearm component</sup> or by firearm  
10 ammunition.

insert  
3-10

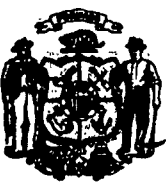
11 (c) (b) The immunity under par. (a) does not apply to an injury or death that was  
12 caused by a defective firearm <sup>defective firearm component</sup> or defective firearm ammunition or by a firearm, or  
13 firearm ammunition that was manufactured or sold with a wilful or wanton  
14 disregard for the safety of the individual or group.

insert  
3-14

SECTION 2. Initial applicability.

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

18 (END)



ASSEMBLY AMENDMENT,  
TO 1999 ASSEMBLY BILL 246

*Insert 3-10*

1 At the locations indicated, amend the bill as follows:

2 1. Page 3; line 10: after that line insert:

3 ~~(a)~~ <sup>6</sup> No injunctive relief may be granted against a firearm dealer, firearm  
4 trade association or a manufacturer, importer or dealer of firearm ammunition) in  
5 any action brought by an individual or group for an injury or death caused by a  
6 firearm or firearm ammunition.

*operator*

7 *a firearm component* (END) of INSERT





ASSEMBLY AMENDMENT,  
TO 1999 ASSEMBLY BILL 246

Insert 3-14

1 At the locations indicated, amend the bill as follows:

2 1. Page <sup>3</sup>2, line 14: after that line insert:

firearm component

3 ~~(e)~~ (d) The immunity under par. (a) does not apply to an injury or death that was  
4 caused by a firearm or firearm ammunition that was unlawfully manufactured or  
5 sold. The fact that the firearm or firearm ammunition was unlawfully manufactured  
6 *in violation of a state or federal law* or sold must be shown by clear and convincing evidence, except that a conviction of  
7 the unlawful manufacture or sale of the firearm or ammunition *by any state or federal court* is conclusive  
8 evidence that the firearm or firearm ammunition was unlawfully manufactured or  
9 sold.

firearm

10 2. Page 3, line 12: delete lines 12 to 14 and substitute "caused by a defective  
11 firearm or defective firearm ammunition."

, firearm component

(END)

of insert

cmj

## p - Note

(91) I did not include  
"sportmen's club" because  
I did not know what  
was meant. I instead, I  
referred to sport shooting  
range owners or operators. I  
was unsure how this group  
fits in this bill, and after  
discussing the matter <sup>with</sup> Don  
Dyke, we decided to add them  
only to sub. (5). We are  
also concerned about the phrase  
"individual or group" in sub.  
(5). I would prefer to use  
"person", which is defined in  
s. 990.01 (26).

(END)

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

LRBs0123/1dn  
RPN:cmh:hmh

September 16, 1999

I did not include "sportsman's club" because I did not know what was meant. Instead, I referred to sport shooting range owners or operators. I was unsure how this group fits in this bill, and after discussing the matter with Don Dyke, we decided to add them only to sub. (5). We are also concerned about the phrase "individual or group" in sub. (5). I would prefer to use "person", which is defined in s. 990.01 (26).

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

10/11 Gundrum

Wants changes to S 0123

1. P 1, L 5 P 2, L 24  
& P 3, L 4 add  
gun & sportsman clubs
2. P 2, L 11-13 get rid  
of "lawful" & say  
sub. does not apply to  
firearms... designed... in violation  
of law
3. P 3, L 2, allow an ind.  
to sue an individual  
for negl. of an individual
4. P 3, L. 15-19. remove  
everything after "evidence"
5. Add D-Note saying  
the language on P 2, L 8-13  
are designed & intended to  
prohibit nuisance actions  
as well as other actions

NOTES FROM  
Guardraa tele discussion

1 (c) "Firearm dealer" means any person engaged in the business of importing,  
2 manufacturing or dealing in firearms or firearm components and having a license as  
3 an importer, 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 (f) "Sport shooting range" has the meaning given in s. 895.527 (1).

8 (2) The state, a political subdivision, and every department, division, board or  
9 agency of the state or of a political subdivision, may not bring an action <sup>or proceeding</sup> against a  
10 firearm dealer, firearm trade association or a manufacturer, importer or dealer of  
11 firearm ammunition for damages resulting from or injunctive relief relating to the

12 ~~lawful~~ design, ~~lawful~~ distribution, manufacture, marketing or sale to the public of  
13 firearms, firearm components or firearm ammunition. <sup>This subs. does not</sup>

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

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

23 (5)(a) A firearm dealer, firearm trade association or a manufacturer, importer  
24 or dealer of firearm ammunition <sup>a gun or sportsman's club</sup> or a sport shooting range owner or operator is  
25 immune from civil liability in any action brought by an individual or group for an

intentional  
G. Pursuant to  
this language  
is intended to  
cover  
nuisance

This subs. does not  
apply to the actions related to firearms, firearm  
components, or firearm  
ammunition  
as  
that  
is  
described  
or  
sold  
in  
violation  
of  
state  
or  
federal  
law.

SECTION 1

*This subsection does not prevent an individual from bringing an action against another individual for injury or death caused by a second individual's injury or death caused by a firearm, by a firearm component or by firearm ammunition.*

*handling of a firearm, firearm, CO2 or fire arm.*

(b) No injunctive relief may be granted against a firearm dealer, firearm trade association or a manufacturer, importer or dealer of firearm ammunition or against a sport shooting range owner or operator in any action brought by an individual or group for an injury or death caused by a firearm, a firearm component or firearm ammunition.

(c) The immunity under par. (a) does not apply to an injury or death that was caused by a defective firearm, defective firearm component or defective firearm ammunition.

(d) The immunity under par. (a) does not apply to an injury or death that was caused by a firearm, firearm component or firearm ammunition that was ~~unlawfully~~ *in violation of state or federal law* manufactured or sold. The fact that the firearm, firearm component or firearm ammunition was manufactured or sold in violation of a state or federal law must be shown by clear and convincing evidence, except that a conviction of the unlawful

~~manufacture or sale of the firearm, firearm component or firearm ammunition by any state or federal court is conclusive evidence that the firearm, firearm component or firearm ammunition was manufactured or sold in violation of a state or federal~~

*law.*

**SECTION 2. Initial applicability.**

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



D-Note

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

1 **AN ACT to create 895.45 of the statutes, relating to: actions against sport**  
2 **shooting range owners or operators) and against manufacturers, importers,**  
3 **trade associations or dealers of firearms) or firearm ammunition.**

**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 sport shooting range owners or operators or**  
6 **firearm or firearm ammunition dealers or firearm trade associations. (1)**

7 **In this section:**

8 (a) "Defective" means failing to perform in a reasonably safe and suitable  
9 manner the particular use for which the product was manufactured.

10 (b) "Firearm" means a weapon that acts by force of gunpowder.

1 (c) "Firearm dealer" means any person engaged in the business of importing,  
2 manufacturing or dealing in firearms or firearm components and having a license as  
3 an importer, 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 (f) "Sport shooting range" has the meaning given in s. 895.527 (1).

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

14 (3) Subsection (2) does not prohibit the state, a political subdivision, or a  
15 department, division, board or agency of the state or of a political subdivision, from  
16 bringing an action <sup>or proceeding</sup> against a firearm dealer, firearm trade association or a  
17 manufacturer, importer or dealer of firearm ammunition <sup>or breach of contract or</sup>  
18 warranty as to <sup>a</sup>firearms, <sup>or</sup>firearm components or firearm ammunition purchased by  
19 the state, a political subdivision, or by a department, division, board or agency of the  
20 state or of a political subdivision. <sup>(Insert 2-20)</sup>

21 (4) The court shall dismiss any action <sup>or proceeding</sup> commenced or pending that is prohibited  
22 by sub. (2).

23 (5) (a) A firearm dealer, ~~firearm trade association~~ or a manufacturer, importer  
24 or dealer of firearm <sup>a gun or sportsmen's club</sup>ammunition or a sport shooting range owner or operator is  
25 immune from civil liability in any action brought by an individual or group for an  
<sup>or proceeding</sup>



1 injury or death caused by a firearm, ~~the~~ <sup>or</sup> firearm component or ~~the~~ <sup>or</sup> firearm  
2 ammunition. *against a gun or sportsmen's club*

3 (b) No injunctive relief may be granted against a firearm dealer, firearm trade  
4 association or a manufacturer, importer or dealer of firearm ammunition or against  
5 a sport shooting range owner or operator in any action *or proceeding* brought by an individual or  
6 group for an injury or death caused by a firearm, a firearm component or firearm  
7 ammunition. *and the prohibition under par. (b) do any of the following: 1. An*

8 (c) The immunity under par. (a) ~~does~~ <sup>or</sup> not apply to an injury or death that was  
9 caused by a defective firearm, defective firearm component or defective firearm  
10 ammunition. *2. An*

11 ~~(d) The immunity under par. (a) does not apply to an~~ injury or death that was  
12 caused by a firearm, firearm component or firearm ammunition that was ~~unlawfully~~  
13 *in violation of state or federal law* manufactured or sold. The fact that the firearm, firearm component or firearm  
14 ammunition was manufactured or sold in violation of a state or federal law must be  
15 shown by clear and convincing evidence, except that a conviction of the unlawful  
16 manufacture or sale of the firearm, firearm component or firearm ammunition by  
17 any state or federal court is conclusive evidence that the firearm, firearm component  
18 or firearm ammunition was manufactured or sold in violation of a state or federal  
19 law.

Insert  
3-19

20 **SECTION 2. Initial applicability.**

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

23 (END)

*or proceedings*

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0123/2ins  
RPN:cmh:hmh

1 insert 2-20:

2 (b) Related to a firearm, firearm component or firearm ammunition that was  
3 designed, distributed, manufactured, marketed or sold in violation of state or federal  
4 law.

5

6 insert 3-19:

7  3. An individual that caused the injury or death of another by the negligent  
8 handling of a firearm, firearm component or firearm ammunition.

(END OF INSERTS)

D-NOTE



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

LRBs0123/2dn  
RPN:cmh:hmh

*cmh*

*DATE*

As we discussed on October 11, sub. (2) of the draft is intended to, and I do believe <sup>it</sup> does, include nuisance suits as one of the actions or proceedings that the state and the political subdivisions are prohibited from bringing.

I changed sub. (3) to include the new language we talked about including in sub. (2). I think the new language fits better in sub. (3). Review sub. (5) (c) carefully to determine if I ~~fulfilled~~ your intent.

*Complied with*

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

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

LRBs0123/2dn  
RPN:cmh:jf

October 12, 1999

As we discussed on October 11, sub. (2) of the draft is intended to, and I do believe it does, include nuisance suits as one of the actions or proceedings that the state and the political subdivisions are prohibited from bringing.

I changed sub. (3) to include the new language we talked about including in sub. (2). I think the new language fits better in sub. (3). Review sub. (5) (c) carefully to determine if I complied with your intent.

Robert P. Nelson  
Senior Legislative Attorney  
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10/12 Rep. Gundrum asked  
that the language on  
p 3, ls 17 & 18 be added to  
p 2, l 23. He agrees that p 3, ls 20 & 21  
should cover the concerns about an  
individual, such as a dealer, who, while  
showing a gun to a prospective buyer,  
negligently shoots the gun & injures someone.  
That individual negligent act should not  
be covered by the bill.

5084

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

*repeal*

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) "Defective" means failing to perform in a reasonably safe and suitable  
10 manner the particular use for which the product was manufactured.

11 (b) "Firearm" means a weapon that acts by force of gunpowder.

1 (c) "Firearm dealer" means any person engaged in the business of importing,  
2 manufacturing or dealing in firearms or firearm components and having a license as  
3 an importer, 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 (f) "Sport shooting range" has the meaning given in s. 895.527 (1).

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

14 (3) Subsection (2) does not prohibit the state, a political subdivision, or a  
15 department, division, board or agency of the state or of a political subdivision, from  
16 bringing an action or proceeding against a firearm dealer, firearm trade association  
17 or a manufacturer, importer or dealer of firearm ammunition:

18 (a) For breach of contract or warranty as to a firearm, firearm component or  
19 firearm ammunition purchased by the state, a political subdivision, or by a  
20 department, division, board or agency of the state or of a political subdivision.

21 (b) Related to a firearm, firearm component or firearm ammunition that was  
22 designed, distributed, manufactured, marketed or sold in violation of state or federal  
23 law. *Insert 2-23*

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



*Insert 2-23*

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

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

11 (c) The immunity under par. (a) and the prohibition under par. (b) do not apply  
12 to any of the following:

13 1. An injury or death that was caused by a defective firearm, defective firearm  
14 component or defective firearm ammunition.

15 2. An injury or death that was caused by a firearm, firearm component or  
16 firearm ammunition that was manufactured or sold in violation of state or federal

17 law. *NSA* The fact that *the* firearm, firearm component or firearm ammunition was

18 *designed, distributed,* manufactured or sold in violation of a state or federal law must be shown by clear and

19 convincing evidence.

*(END OF INSERT)*

20 3. An individual *who* ~~that~~ caused the injury or death of another by the negligent  
21 handling of a firearm, firearm component or firearm ammunition.

22 **SECTION 2. Initial applicability.**

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

25



Rep. Gunderson                      Jim Marx

AB 246

ASA 0123/3

1) P. 3, l. 7: after period  
 paragraph  
 This does not apply to ~~the actual~~ <sup>reg.</sup> handling  
 of a firearm by an ind.  
 (etc.)  
 ic, not selling  
 if the injury or death is caused by the actual

2) P. 3, l. 15 a defect in the workmanship or material of a firearm etc.  
 delete p. 1, l 9 & 10

3) New 9) <sup>in par. (a)</sup> I immunity doesn't apply for injury etc. caused by illegal use by an ind.  
 (P-3)

4) P. 2, l. 23 → State etc. may sue only  
 P. 3, l. 19 the parties who violated the law,  
 the harm giving rise to the action must be proximately caused by violation of damages  
 of whose violations were prox. cause

End of  
Days 1/20  
hours

§ JEO

4

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

regen cost

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) "Defective" means failing to perform in a reasonably safe and suitable~~  
10 ~~manner the particular use for which the product was manufactured.~~

(1) ~~(b)~~ "Firearm" means a weapon that acts by force of gunpowder.  
a

b

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

c

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

d

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

e

7 (f) "Sport shooting range" has the meaning given in s. 895.527 (1).

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

14 (3) Subsection (2) does not prohibit the state, a political subdivision, or a  
15 department, division, board or agency of the state or of a political subdivision, from  
16 bringing an action or proceeding against a firearm dealer, firearm trade association  
17 or a manufacturer, importer or dealer of firearm ammunition:

18 (a) For breach of contract or warranty as to a firearm, firearm component or  
19 firearm ammunition purchased by the state, a political subdivision, or by a  
20 department, division, board or agency of the state or of a political subdivision.

21 (b) Related to a firearm, firearm component or firearm ammunition that was  
22 designed, distributed, manufactured, marketed or sold in violation of state or federal  
23 law. The fact that a firearm, firearm component or firearm ammunition was  
24 designed, distributed, manufactured or sold in violation of a state or federal law must  
25 be shown by clear and convincing evidence.

INS  
2-23

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

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

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

INS  
3-12

13 (c) The immunity under par. (a) and the prohibition under par. (b) do not apply  
14 to any of the following:

in the workmanship or material of a  
a

15 1. An injury or death that was caused by a defective ~~firearm~~ firearm, ~~defective~~ firearm  
16 component or ~~defective~~ firearm ammunition.

17 2. An injury or death that was caused by a firearm, firearm component or  
18 firearm ammunition that was manufactured or sold in violation of state or federal  
19 law. The fact that the firearm, firearm component or firearm ammunition was  
20 manufactured or sold in violation of a state or federal law must be shown by clear and  
21 convincing evidence.

INS  
3-19

22 3. An individual who caused the injury or death of another by the negligent  
23 handling of a firearm, firearm component or firearm ammunition.

24 SECTION 2. Initial applicability.



1           **INSERT 2-23:**

2 (no) An action or proceeding that is permitted under this paragraph may be brought only ✓  
3 against a person who violated state or federal law and only if the harm giving rise  
4 to the action or proceeding was proximately caused by the person's violation of state  
5 or federal law.

6           **INSERT 3-12:**

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

8           1. An injury or death caused by the negligent handling of a firearm, a firearm ✓  
9 component or firearm ammunition by an individual covered under par. (a) if, at the ✓  
10 time of the act or omission that constitutes the negligent handling, the individual is  
11 in actual physical possession of the firearm, firearm component or firearm  
12 ammunition.

13           2. An injury or death caused by a firearm, a firearm component or firearm  
14 ammunition that an individual covered under par. (a) uses in violation of a state or ✓  
15 federal law or that an individual covered under par. (a) uses while committing ✓  
16 another act that violates a state or federal law.

17           **INSERT 3-19:**

18 (no) An action or proceeding that is permitted under this subdivision may be brought only ✓  
19 against a person who violated state or federal law and only if the harm giving rise  
20 to the action or proceeding was proximately caused by the person's violation of state  
21 or federal law.

(END OF INSERT)



→ School district?

Pol. subd.?

p. 4/1.2 materials

→ "local gov'tal unit"

X

a school district

115.00 (3)

tech. college districts ch. 38





*Jason Munday*

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

3  
K.M.R.

*refer act*

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.

"local governmental unit"

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

3 (d) ~~Political subdivision~~ means a city, village, town or county.

or school district

4 (e) "Sport shooting range" has the meaning given in s. 895.527 (1).

local governmental unit

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

local govern-  
mental unit

11 (3) Subsection (2) does not prohibit the state, a ~~political subdivision~~ or a  
12 department, division, board or agency of the state or of a ~~political subdivision~~ from  
13 bringing an action or proceeding against a firearm dealer, firearm trade association  
14 or a manufacturer, importer or dealer of firearm ammunition:

15 (a) For breach of contract or warranty as to a firearm, firearm component or  
16 firearm ammunition purchased by the state, a ~~political subdivision~~ or by a  
17 department, division, board or agency of the state or of a ~~political subdivision~~

18 (b) Related to a firearm, firearm component or firearm ammunition that was  
19 designed, distributed, manufactured, marketed or sold in violation of state or federal  
20 law. An action or proceeding that is permitted under this paragraph may be brought  
21 only against a person who violated state or federal law and only if the harm giving  
22 rise to the action or proceeding was proximately caused by the person's violation of  
23 state or federal law. The fact that a firearm, firearm component or firearm  
24 ammunition was designed, distributed, manufactured or sold in violation of a state  
25 or federal law must be shown by clear and convincing evidence.

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

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

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

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

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

19           2. An injury or death caused by a firearm, a firearm component or firearm  
20 ammunition that an individual covered under par. (a) uses in violation of a state or  
21 federal law or that an individual covered under par. (a) uses while committing  
22 another act that violates a state or federal law.

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

1           1. An injury or death that was caused by a defect in the workmanship or  
2           material<sup>5</sup> of a firearm, a firearm component or firearm ammunition.

3           2. An injury or death that was caused by a firearm, firearm component or  
4           firearm ammunition that was manufactured or sold in violation of state or federal  
5           law. An action or proceeding that is permitted under this subdivision may be brought  
6           only against a person who violated state or federal law and only if the harm giving  
7           rise to the action or proceeding was proximately caused by the person’s violation of  
8           state or federal law. The fact that the firearm, firearm component or firearm  
9           ammunition was manufactured or sold in violation of a state or federal law must be  
10          shown by clear and convincing evidence.

11                 **SECTION 2. Initial applicability.**

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

14    **(END)**

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Monday, January 24, 2000 3:12 PM  
**To:** Rep.Gundrum; Churchill, Jolene  
**Subject:** 99s0123/5 (per your request)



99s0123/5

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703



ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 1999 ASSEMBLY BILL 246

reger  
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.

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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 <sup>a</sup>state or federal  
21 law. *that could result in a criminal penalty or civil forfeiture* An action or proceeding that is permitted under this paragraph may be brought  
22 only against a person who violated <sup>a</sup>state or federal law *that could result in a criminal penalty or civil forfeiture* and only if the harm giving  
23 rise to the action or proceeding was proximately caused by the person's violation of  
24 <sup>a</sup>state or federal law. The fact that a firearm, firearm component or firearm

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

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

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

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

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

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

21 2. An injury or death caused by a firearm, a firearm component or firearm  
22 ammunition that an individual covered under par. (a) uses in violation of a state or  
23 federal law) or that an individual covered under par. (a) uses while committing  
24 another act that violates a state or federal law.

*that could result in a criminal penalty  
or civil forfeiture*



*that could result in a criminal penalty  
or civil forfeiture*

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

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

5 2. An injury or death that was caused by a firearm, firearm component or  
6 firearm ammunition that was manufactured or sold in violation of state or federal

7 law. An action or proceeding that is permitted under this subdivision may be brought

8 only against a person who violated state or federal law and only if the harm giving  
9 rise to the action or proceeding was proximately caused by the person's violation of

10 state or federal law. The fact that the firearm, firearm component or firearm

11 ammunition was manufactured or sold in violation of a state or federal law must be

12 shown by clear and convincing evidence.

13 **SECTION 2. Initial applicability.**

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

16 (END)