

By the Committee on Governmental Oversight and Productivity;  
and Senator Bronson

302-2122A-00

1                                   A bill to be entitled  
2           An act relating to civil actions; creating s.  
3           790.331, F.S.; providing legislative findings  
4           with respect to the lawful manufacture,  
5           distribution, and sale of firearms and  
6           ammunition; prohibiting civil actions on behalf  
7           of the state or other political subdivision  
8           against manufacturers, distributors, and  
9           dealers of firearms or ammunition and firearms  
10          trade associations; providing for actions for  
11          breach of contract or warranty; providing for  
12          actions for injuries resulting from defects in  
13          design or manufacture; providing that the  
14          potential of firearms or ammunition to cause  
15          serious injury, damage, or death does not  
16          constitute a defective condition; providing for  
17          the award of expenses in certain civil actions;  
18          providing an exception; providing for  
19          application of the act; prohibiting a legal  
20          action on behalf of the state or other  
21          political subdivisions against a manufacturer,  
22          trade association, distributor, or dealer for  
23          damages arising out of the marketing or sale of  
24          a lawful product; providing for actions for  
25          breach of contract or warranty; providing for  
26          actions for injuries resulting from a defective  
27          product; providing for an award of attorney's  
28          fees and compensation for loss of income if the  
29          court finds the defendant is immune as provided  
30          by the act; providing for application of the  
31          act; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 790.331, Florida Statutes, is  
4 created to read:

5 790.331 Prohibition of civil actions against firearms  
6 or ammunition manufacturers, firearms trade associations,  
7 firearms or ammunition distributors, or firearms or ammunition  
8 dealers.--

9 (1) The Legislature finds and declares that the  
10 manufacture, distribution, or sale of firearms and ammunition  
11 by manufacturers, distributors, or dealers duly licensed by  
12 the appropriate federal and state authorities is a lawful  
13 activity and is not unreasonably dangerous, and further finds  
14 that the unlawful use of firearms and ammunition, rather than  
15 their lawful manufacture, distribution, or sale, is the  
16 proximate cause of injuries arising from their unlawful use.

17 (2) Except as permitted by this section, a legal  
18 action against a firearms or ammunition manufacturer, firearms  
19 trade association, firearms or ammunition distributor, or  
20 firearms or ammunition dealer on behalf of the state or its  
21 agencies and instrumentalities, or on behalf of a county,  
22 municipality, special district, or any other political  
23 subdivision or agency of the state, for damages, abatement, or  
24 injunctive relief resulting from or arising out of the lawful  
25 design, marketing, distribution, or sale of firearms or  
26 ammunition to the public is prohibited. However, this  
27 prohibition does not infringe upon the right of a natural  
28 person to sue a firearms or ammunition manufacturer, firearms  
29 trade association, firearms or ammunition distributor, or  
30 firearms or ammunition dealer in any other capacity.

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1           (3) A county, municipality, special district, or other  
2 political subdivision or agency of the state may not sue for  
3 or recover from a firearms or ammunition manufacturer,  
4 firearms trade association, firearms or ammunition  
5 distributor, or firearms or ammunition dealer damages,  
6 abatement, or injunctive relief in any case that arises out of  
7 or results from the lawful design, marketing, distribution, or  
8 sale of firearms or ammunition to the public.

9           (4) This section does not prohibit an action against a  
10 firearms or ammunition manufacturer, distributor, or dealer  
11 for:

12           (a) Breach of contract or warranty in connection with  
13 a firearm or ammunition purchased by a county, municipality,  
14 special district, or other political subdivision or agency of  
15 the state.

16           (b) Injuries resulting from the malfunction of a  
17 firearm or ammunition due to a defect in design or  
18 manufacture.

19           (5)(a) For the purposes of this section, the potential  
20 of a firearm or ammunition to cause serious injury, damage, or  
21 death as a result of normal function does not constitute a  
22 defective condition of the product.

23           (b) A firearm or ammunition may not be deemed  
24 defective on the basis of its potential to cause serious  
25 injury, damage, or death when discharged legally or illegally.

26           (6)(a) If a civil action is brought in violation of  
27 this section, the defendant may recover all expenses resulting  
28 from such action from the governmental entity bringing such  
29 action.

30           (b) In any civil action where the court finds that the  
31 defendant is immune as provided in this section, the court

1 shall award the defendant all attorney's fees, costs and  
2 compensation for loss of income, and expenses incurred as a  
3 result of such action.

4 (7) This section applies to any action brought on or  
5 after the effective date of this section.

6 Section 2. (1) Except as permitted by this section, a  
7 legal action against a manufacturer, trade association,  
8 distributor, or dealer on behalf of the state or its agencies  
9 and instrumentalities, or on behalf of a county, municipality,  
10 special district, or any other political subdivision or agency  
11 of the state, for damages, abatement, or injunctive relief  
12 resulting from or arising out of the lawful design, marketing,  
13 distribution, or sale of a lawful product to the public is  
14 prohibited. However, this prohibition does not infringe upon  
15 the right of a natural person to sue a manufacturer, trade  
16 association, distributor, or dealer in any other capacity.

17 (2) A county, municipality, special district, or other  
18 political subdivision or agency of the state may not sue for  
19 or recover from a manufacturer, trade association,  
20 distributor, or dealer damages, abatement, or injunctive  
21 relief in any case that arises out of or results from the  
22 lawful design, marketing, distribution, or sale of a lawful  
23 product to the public.

24 (3) This section does not prohibit an action against a  
25 manufacturer, distributor, or dealer for:

26 (a) Breach of contract or warranty in connection with  
27 a product purchased by a county, municipality, special  
28 district, or other political subdivision or agency of the  
29 state.

30 (b) Injuries resulting from a defective product.  
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1           (4)(a) If a civil action is brought in violation of  
2 this section, the defendant may recover all expenses resulting  
3 from such action from the governmental entity bringing such  
4 action.

5           (b) In any civil action where the court finds that the  
6 defendant is immune as provided in this section, the court  
7 shall award the defendant all attorney's fees, costs and  
8 compensation for loss of income, and expenses incurred as a  
9 result of such action.

10           (5) This section applies to any action brought on or  
11 after the effective date of this section.

12           Section 3. This act shall take effect upon becoming a  
13 law.

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15                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
16                           COMMITTEE SUBSTITUTE FOR  
17                           SB 1398

18 Changes bill's applicability provision to state that it only  
19 applies to actions brought on or after the bill's effective  
date.

20 Removes legislative finding that the manufacture, distribution  
21 and sale of lawful products are lawful activities and are not  
unreasonably dangerous.

22 Adds a provision which states that the bill's prohibition on  
23 government entities concerning lawful products does not  
infringe on a natural person's rights.

24 Removes provision which indicated that a lawful product could  
25 not be deemed defective on the basis that it could potentially  
26 cause serious injury, damage, or death when used or consumed  
legally or illegally.