

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 1748

INTRODUCER: Judiciary Committee and Senator Trumbull

SUBJECT: Evidence in Civil Actions Relating to Firearms

DATE: February 10, 2026

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	Fav/CS
2.			CM	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1748 creates s. 790.3315, F.S., which limits the introduction of certain kinds of evidence in product liability actions involving firearms.

Specifically, the bill provides that for purposes of a product liability action involving a firearm, evidence of a defective product design, negligence, a duty to warn, strict liability, or evidence to support similar claims may not include the absence of any of the following mechanisms or features:

- An authorized user recognition technology.
- An external mechanical safety, including, but not limited to, a hinged, pivoting, or tabbed trigger safety.
- A loaded chamber indicator.
- A magazine disconnect mechanism.
- Any mechanism or feature that would perform the same function as a mechanism or feature described in the bill.

The bill also provides that it may not be construed to limit liability for a firearm manufacturer in cases where the claimant establishes that the firearm contained an actual manufacturing or design defect or failed to operate in a manner consistent with the manufacturer's express warranty or representations.

The bill takes effect on July 1, 2026, and applies to causes of action accruing on or after that date.

## II. Present Situation:

### Products Liability Actions

#### *In General*

A “products liability action” is a civil action based upon a theory of strict liability, negligence, breach of warranty, nuisance, or similar theories for damages caused by the manufacture, construction, design, formulation, installation, preparation, or assembly of a product, or the failure to warn that the product is potentially dangerous.<sup>1</sup> However, it is the substance of an action, not the conclusory terms used by a party, that determines whether an action is a products liability action.<sup>2</sup>

Products liability laws are based on the premise that companies have a duty to protect consumers from potential hazards caused by their products.<sup>3</sup> Generally, a product must meet the ordinary expectations of a consumer; when a product has an unexpected defect or danger, the product cannot be said to meet those expectations.<sup>4</sup>

However, Florida courts have held that:

- A manufacturer has no duty to design the safest possible product.
- A manufacturer cannot be held liable for the misuse of a product.
- There is no duty to warn of an obvious danger or a danger about which the user is aware.
- A legally sufficient warning does not need to prevent a user from misusing a product.
- A product manufacturer, distributor, or seller does not owe a duty to a third party who is injured as a result of a buyer’s use of a product for unintended purposes.<sup>5</sup>

A manufacturer, although liable for injuries caused by a defect in its product, is not an insurer for all physical injuries caused by its product.<sup>6</sup> Additionally, the Fourth District Court of Appeal has repeatedly held that:

products liability does not make the manufacturer an insurer of all foreseeable accidents which involve its product...the availability of an alternative design does not translate into a legal duty in products liability. An action is not maintainable in products liability merely because the design used was not the safest possible.<sup>7</sup>

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<sup>1</sup> The statute of limitations for a products liability action depends on the specific theory alleged. For example, the statute of limitations for a negligence action is 2 years, while the statute of limitations for a breach of warranty action is 4 years. Section 95.11(5)(a), F.S. (regarding actions founded on negligence); s. 95.11(3)(j), F.S. (regarding actions on contracts involving the sale and delivery of goods, wares, and merchandise).

<sup>2</sup> Section 768.81(1)(d), F.S.

<sup>3</sup> FindLaw, *Product Liability*, <https://corporate.findlaw.com/litigation-disputes/civil-litigation/product-liability.html> (last visited Feb. 5, 2026).

<sup>4</sup> *See id.*

<sup>5</sup> *Michael Grieco v. Daiho Sangyo, Inc.*, 344 So. 3d 11, 18-22 (Fla. 4<sup>th</sup> DCA 2022).

<sup>6</sup> *Houdaille Indus., Inc. v. Edwards*, 374 So. 2d 490, 493 (Fla. 1979).

<sup>7</sup> *Grunow v. Valor Corp. of Florida*, 904 So. 2d 551, 556 (Fla. 4<sup>th</sup> DCA 2005) (quoting *Husky Indus., Inc. v. Black*, 434 So.2d 988, 991 (Fla. 4<sup>th</sup> DCA 1983)).

## ***Theories of Liability***

### **Strict Liability**

A products liability action based on the theory of strict liability exists when a defendant is liable for committing an action, regardless of what his or her intent or mental state was when committing the action. In the products liability context, strict liability may apply when a defective product for which a defendant holds responsibility causes injury to a plaintiff.<sup>8</sup> In a strict liability action alleging defective design, the focus is on the product itself and the reasonable expectations of the consumer and the plaintiff has no obligation to prove the existence of negligence.<sup>9</sup> If strict liability applies, “the designer and manufacturer, any distributor, importer, or seller in the chain of distribution is liable for injury caused by a defective product.”<sup>10</sup>

### **Negligence**

“Negligence” is the failure to act with the level of care that a reasonable person would have exercised under the same circumstances. The elements required to prove negligence are duty, breach, causation, and damages.<sup>11</sup> Specifically, with respect to a claim based on negligence involving firearms, the injured party may be required to show that a defendant owed not merely a general duty to society, but a specific duty to the injured party.<sup>12</sup>

### **Breach of Warranty**

“Breach of warranty” is the violation of an express or implied contract of warranty, and thus it is a breach of contract. Essentially, it occurs when the warrantor fails to provide the assurances warranted.<sup>13</sup>

### **Defective Design**

Defective product design is a theory often cited in products liability cases. A “design defect” means that the product was manufactured correctly, but the defect is inherent in the design of the product itself, which makes the product dangerous to consumers.<sup>14</sup> Specifically, a plaintiff must show that a defective design renders a product unreasonably dangerous.<sup>15</sup> “The alleged design defect must also cause unforeseeable dangers during normal—that is, intended—use of the product.”<sup>16</sup>

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<sup>8</sup> Cornell Law School, Legal Information Institute, *Strict Liability*, [https://www.law.cornell.edu/wex/strict\\_liability](https://www.law.cornell.edu/wex/strict_liability) (last visited Feb. 5, 2026).

<sup>9</sup> *Grieco v. Dahio Sangyo, Inc.*, 344 So. 3d 11, 18 (Fla. 4th DCA 2022).

<sup>10</sup> The Florida Bar, Fla. Std. Jury. Instr. (Civ), No. 403.7, note 4, <https://www.floridabar.org/rules/florida-standard-jury-instructions/civil-jury-instructions/civil-instructions/#400>.

<sup>11</sup> Cornell Law School, Legal Information Institute, *Negligence*, <https://www.law.cornell.edu/wex/negligence> (last visited Feb. 5, 2026).

<sup>12</sup> *See Grunow*, 904 So. 2d at 556.

<sup>13</sup> Cornell Law School, Legal Information Institute, *Breach of Warranty*, [https://www.law.cornell.edu/wex/breach\\_of\\_warranty](https://www.law.cornell.edu/wex/breach_of_warranty) (last visited Feb. 5, 2026).

<sup>14</sup> Cornell Law School, Legal Information Institute, *Design Defect*, [https://www.law.cornell.edu/wex/design\\_defect](https://www.law.cornell.edu/wex/design_defect) (last visited Feb. 5, 2026).

<sup>15</sup> *Grieco*, 344 So. 3d at 18.

<sup>16</sup> *Id.* at 19.

### Manufacturing Defects

Unlike a flawed or defective design, a product may also fail due to a manufacturing defect, which is a defect that occurred during the production or manufacturing of the product.<sup>17</sup> In contrast to a design defect which impacts the entire line of products, a manufacturing defect is a flaw that occurs only to some of the products during manufacture.<sup>18</sup>

### Failure to Warn

In addition to an action based on a manufacturing defect or design defect of a product, a plaintiff may also commence a products liability action based on a failure to warn or warning defect. A claim based on a failure to warn does not assert that the physical product was flawed, but rather that the manufacturer failed to provide adequate warning or instructions about the safe use of the product and the consumer was injured due to such undisclosed risk.<sup>19</sup>

## **Firearms**

### ***Generally***

State law defines a “firearm” as any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun.<sup>20</sup> The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime.<sup>21</sup>

Generally, firearm manufacturing is regulated and licensed through the federal government and the Gun Control Act of 1968.<sup>22</sup> Manufacturers must adhere to federal and state laws which include restrictions on the sale and transport of firearms and certain production requirements including the placement of individual serial numbers on each firearm produced by the licensee.

State law prohibits the state, a subdivision or agency thereof, or a county or municipality, from filing an action against a firearm manufacturer arising out of the lawful design, marketing, distribution, or sale of firearms or ammunition to the public.<sup>23</sup>

### ***Gun Safety Mechanisms***

#### Manual Firearm Safety Switches

A manual firearm safety switch is a mechanical feature designed to reduce the risk of an unintended discharge by blocking the trigger, hammer, striker, or firing pin until specific

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<sup>17</sup> Cornell Law School, Legal Information Institute, *Manufacturing Defect*, [https://www.law.cornell.edu/wex/manufacturing\\_defect](https://www.law.cornell.edu/wex/manufacturing_defect) (last visited Feb. 5, 2026).

<sup>18</sup> *Id.*

<sup>19</sup> Justia, Products Liability Law Center, *Failures to Warn Supporting Products Liability Legal Claims*, <https://www.justia.com/products-liability/types-of-products-liability-claims/failure-to-warn/> (last visited Feb. 5, 2026).

<sup>20</sup> Section 790.001(9), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> 18 U.S.C. ss. 921-931.

<sup>23</sup> Section 790.331, F.S.

conditions are met. Common firearm safety mechanisms include manual safeties, grip safeties, trigger safeties, firing pin blocks, transfer bars, drop safeties, and magazine disconnects. Some are manually engaged while others function automatically.<sup>24</sup>

Safety Type	How It Works	User Action Required	Common Platforms
Manual Safety (Thumb/Slide)	Physically blocks firing mechanism	Yes	Semi-auto pistols
Grip Safety	Prevents firing unless grip is depressed	No (automatic)	1911-style pistols
Trigger Safety	Blocks trigger movement until pressed correctly	No (automatic)	Striker-fired pistols
Firing Pin Block	Blocks firing pin until trigger is pulled	No (automatic)	Most modern pistols
Transfer Bar	Prevents hammer from striking firing pin unless trigger is pulled	No (automatic)	Modern revolvers
Magazine Disconnect	Prevents firing when magazine is removed	No (automatic)	Select semi-auto pistols
Decocker	Safely lowers hammer without firing	Yes	DA/SA pistols

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There are several advantages and disadvantages to having a manual firearm safety switch on a firearm. Manual firearm safety switches can prevent accidental discharges, ensure the safety of children, provide protection during holstering and unholstering, and ensure peace of mind. However, they can also create a false sense of security, slow down reaction time in self-defense situations, increase complexity and thereby introduce the potential for mechanical failure, and lead to inconsistencies in muscle memory.<sup>26</sup>

Smart Gun Technology

Generally, there are two main types of personalized smart guns:

- Biometrical-based trigger locks consist of fingerprint or palm-based readers that unlock the firearm when the user’s biometric information is recognized; this is similar to the technology used to unlock smart phones.
- Radio frequency identification (RFID) trigger locks use electromagnets and radio waves to unlock a trigger only when the weapon is proximate to an electronically matched external device (such as a chip-enabled token). Once the gun’s locking mechanism is deactivated, the gun can be fired.<sup>27</sup>

<sup>24</sup> Bob Campbell, U.S. Concealed Carry Association, *Types of Fun Safeties: How Firearm Safety Mechanisms Work*, Dec. 17, 2025, <https://www.usconcealedcarry.com/blog/types-of-gun-safeties/>.

<sup>25</sup> *Id.*

<sup>26</sup> EasyShotTargets.com Blog, *Manual Safety or Not: The Pros and Cons of Having a Safety Switch on Your Firearm*, May 16, 2023, <https://easys hottargets.com/blogs/news/manual-safety-or-not-the-pros-and-cons-of-having-a-safety-switch-on-your-firearm>.

<sup>27</sup> Duke Center for Firearms Law, *Smart Guns: An Effective Solution or a Waste of Resources?*, Jun. 5, 2020, <https://firearmslaw.duke.edu/2020/06/smart-guns-an-effective-solution-or-a-waste-of-resources>.

Smart guns have been promoted as a way to help prevent suicides and accidental firearm discharges, especially among young people. They could also render lost or stolen guns useless and offer safety for police officers and jail guards who fear gun grabs.<sup>28</sup> However, there may be technical impediments to their use. Biometrical based trigger locks can malfunction if the user's hand is sweaty, dirty, or wet. RFID trigger locks can be hacked using inexpensive magnets.<sup>29</sup>

### III. Effect of Proposed Changes:

The bill creates s. 790.3315, F.S., entitled "Evidence in certain civil actions relating to firearms," which limits the introduction of certain kinds of evidence in product liability actions involving firearms.

The bill defines the following terms for purposes of the statute:

- "Authorized user recognition technology" means a mechanism, device, or technology applied to a firearm which prevents an unauthorized user from firing the firearm.
- "External manual safety" means a manually operated mechanism that, when engaged, blocks the trigger from functioning.
- "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime.<sup>30</sup>
- "Loaded chamber indicator" means a mechanism or feature intended to indicate to the firearm user that a cartridge is in the firing chamber of the firearm.
- "Magazine disconnect mechanism" means a mechanism that prevents a semiautomatic firearm from firing when the detachable magazine is not fully inserted in the firearm.

The bill provides that for purposes of a product liability action involving a firearm, evidence of a defective product design, negligence, a duty to warn, strict liability, or evidence to support similar claims may not include the absence of any of the following mechanisms or features:

- An authorized user recognition technology.
- An external mechanical safety, including, but not limited to, a hinged, pivoting, or tabbed trigger safety.
- A loaded chamber indicator.
- A magazine disconnect mechanism.
- Any mechanism or feature that would perform the same function as a mechanism or feature described in the bill.

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<sup>28</sup> Daniel Trotta, *Exclusive: Smart guns finally arriving in U.S., seeking to shake up firearms market*, REUTERS, Jan. 11, 2022, <https://www.reuters.com/technology/exclusive-smart-guns-finally-arriving-us-seeking-shake-up-firearms-market-2022-01-11/>.

<sup>29</sup> Duke Center for Firearms Law, *Smart Guns: An Effective Solution or a Waste of Resources?*, Jun. 5, 2020, <https://firearmslaw.duke.edu/2020/06/smart-guns-an-effective-solution-or-a-waste-of-resources>.

<sup>30</sup> The definition incorporates by reference the definition of "firearm" in s. 790.001(9), F.S.

The bill may not be construed to limit liability for a firearm manufacturer in cases where the claimant establishes that the firearm contained an actual manufacturing or design defect or failed to operate in a manner consistent with the manufacturer's express warranty or representations. The bill takes effect on July 1, 2026, and applies to causes of action accruing on or after that date.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely discourage lawsuits against firearm manufacturers and others in the chain of distribution of a firearm in which as the sole basis for liability would have been allegations that the lack of the mechanisms or features described in the bill rendered the firearm defective or unreasonably dangerous. Accordingly, to the extent that the bill reduces lawsuits, the bill will reduce associated litigation expenditures and revenues and potential recoveries.

C. Government Sector Impact:

To the extent that the bill reduces litigation, there will be a reduction in costs associated with the operation of the State Courts System.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 790.3315 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 10, 2026:**

The committee substitute revises the underlying bill to provide that it will not limit the liability of firearm manufacturers if the claimant establishes that the firearm has a defective design. It also revises the bill to provide that the new statute applies to causes of action accruing on or after July 1, 2026.

- B. **Amendments:**

None.