

Representative Jeremy A. Peterson proposes the following substitute bill:

LAWFUL COMMERCE IN ARMS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: _____

Cosponsor: Derrin Owens

LONG TITLE

General Description:

This bill limits the liability of manufacturers and sellers of firearms and ammunition.

Highlighted Provisions:

This bill:

- ▶ enacts the Lawful Commerce in Arms Act;
- ▶ creates definitions; and
- ▶ limits the liability of manufacturers and sellers of firearms and ammunition to specific situations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-5d-101, Utah Code Annotated 1953

53-5d-102, Utah Code Annotated 1953



25 [53-5d-103](#), Utah Code Annotated 1953



27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **53-5d-101** is enacted to read:

29 **CHAPTER 5d. LAWFUL COMMERCE IN ARMS ACT**

30 **53-5d-101. Title.**

31 This chapter is known as the "Lawful Commerce in Arms Act."

32 Section 2. Section **53-5d-102** is enacted to read:

33 **53-5d-102. Definitions.**

34 As used in this chapter:

35 (1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other
36 ammunition designed for use in any firearm, either as an individual component part or in a
37 completely assembled cartridge.

38 (2) "Manufacturer" means, with respect to a qualified product, a person who is engaged
39 in the business of manufacturing a qualified product and who is licensed to engage in business
40 as a manufacturer under 18 U.S.C. Chapter 44.

41 (3) "Negligent entrustment" means the supplying of a qualified product by a seller for
42 use by another person when the seller knows, or reasonably should know, the person to whom
43 the product is supplied is likely to, and does, use the product in a manner involving
44 unreasonable risk of physical injury to the person or others.

45 (4) "Person" means the same as that term is defined in Section [68-3-12.5](#).

46 (5) (a) "Qualified civil liability action" means a civil action or proceeding or an
47 administrative proceeding brought by any person against a manufacturer or seller of a qualified
48 product, or a trade association, for damages, punitive damages, injunctive or declaratory relief,
49 abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or
50 unlawful misuse of a qualified product by the person or a third party.

51 (b) "Qualified civil liability action" does not include:

52 (i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or
53 Section [76-10-503](#) by a party directly harmed by the conduct of which the transferee was
54 convicted;

55 (ii) an action brought against a seller for negligent entrustment or negligence per se;

56 (iii) an action in which a manufacturer or seller of a qualified product knowingly
 57 violated a state or federal statute applicable to the sale or marketing of the product, and the
 58 violation was a proximate cause of the harm for which relief is sought, including:

59 (A) any incident in which the manufacturer or seller knowingly made any false entry
 60 in, or failed to make appropriate entry in, any record required to be kept under federal or state
 61 law with respect to the qualified product, or aided, abetted, or conspired with any person in
 62 making any false or fictitious oral or written statement with respect to any fact material to the
 63 lawfulness of the sale or other disposition of a qualified product; or

64 (B) any case in which the manufacturer or seller aided, abetted, or conspired with any
 65 other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable
 66 cause to believe, that the actual buyer of the qualified product was prohibited from possessing
 67 or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or Section [76-10-503](#);

68 (iv) an action for breach of contract or warranty in connection with the purchase of the
 69 product;

70 (v) an action for death, physical injuries, or property damage resulting directly ~~H→~~, or
 70a indirectly, ~~←H~~ from a
 71 defect in design or manufacture of the product, when used as intended or in a reasonably
 72 foreseeable manner ~~H→~~ [~~except that where the discharge of the product was caused by a volitional~~
 73 ~~act that constituted a criminal offense, then the act shall be considered the sole proximate cause~~
 74 ~~of any resulting death, personal injuries, or property damage]~~ ~~←H~~ ; or

75 (vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C.
 76 Chapter 44, 26 U.S.C. Chapter 53, or Title 76, Chapter 10, Part 5, Weapons.

77 (6) "Qualified product" means a firearm or antique firearm, as defined in Section
 78 [76-10-501](#), ammunition, or a component part of a firearm or ammunition.

79 (7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as
 80 defined in Section [76-10-501](#).

81 (8) "Trade association" means:

82 (a) any corporation, unincorporated association, federation, business league, or
 83 professional or business organization not organized or operated for profit and no part of the net
 84 earnings of which inures to the benefit of any private shareholder or individual;

85 (b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under
 86 26 U.S.C. Sec. 501(a); and

87 (c) an organization, two or more members of which are manufacturers or sellers of a
88 qualified product.

89 (9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation
90 as it relates to the use of a qualified product.

91 Section 3. Section **53-5d-103** is enacted to read:

92 **53-5d-103. Limitations on liability.**

93 (1) A manufacturer or seller of a qualified product, or trade association, is not subject
94 to civil liability regarding the unlawful misuse of a qualified product unless an injury or death
95 results from an act or omission of the manufacturer, seller, or trade association that constitutes
96 gross negligence, recklessness, or intentional misconduct.

97 (2) A qualified civil liability action against a manufacturer, seller, or trade association
98 that does not allege any of the provisions of Subsection [53-5d-103\(5\)\(b\)](#) shall be dismissed.