

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1737

5 By: Representatives R. Scott Richardson, Gazaway, Womack, Duffield
6 By: Senator J. Petty
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE PROPERTY OWNER'S RIGHT TO ALLOW
10 FIREARMS ACT; TO PROTECT PROPERTY OWNERS FROM CIVIL
11 LIABILITY IF THE PROPERTY OWNER ALLOWS A NONEMPLOYEE
12 TO CARRY A LOADED FIREARM ON THE PROPERTY; AND TO
13 PROVIDE A CAUSE OF ACTION FOR INJURIES OR DAMAGE IF A
14 PROPERTY OWNER PROHIBITS A NONEMPLOYEE FROM CARRYING
15 A LOADED FIREARM ON THE PROPERTY.
16

Subtitle

17
18 AN ACT TO CREATE THE PROPERTY OWNER'S
19 RIGHT TO ALLOW FIREARMS ACT.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 16 is amended to add an additional
26 chapter to read as follows:

CHAPTER 131

PROPERTY OWNER'S RIGHT TO ALLOW FIREARMS ACT

29
30 16-131-101. Title.

31 This chapter shall be known and may be cited as the "Property Owner's
32 Right to Allow Firearms Act".
33

34 16-131-102. Purpose.

35 The purpose of this chapter is to:

36 (1) Protect a property owner from civil liability if the



1 property owner generally allows nonemployees to carry firearms on the
2 property owner's property; and

3 (2) Provide a cause of action against a property owner who
4 generally prohibits nonemployees from carrying firearms on the property
5 owner's property and that prohibition results in injuries or damages.

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7 16-131-103. Definitions.

8 As used in this chapter:

9 (1) "Firearm" means any device designed, made, or adapted to
10 expel a projectile by the action of an explosive or any device readily
11 convertible to that use;

12 (2) "Nonemployee" means an individual:

13 (A) Not employed by the property owner; and

14 (B) Not a prohibited person under § 16-131-106; and

15 (3) "Property owner" means an individual, group of individuals,
16 or entity that owns, leases, controls, or otherwise operates real property.

17
18 16-131-104. Protection from civil liability.

19 (a) If a property owner allows for all nonemployees on the property to
20 carry a loaded firearm, the property owner is not subject to civil liability
21 for any damage, injury, or death resulting from a nonemployee using a loaded
22 firearm on or near the property.

23 (b) The fact that a property owner allows for all nonemployees on the
24 property to carry a loaded firearm shall not be used to infer or impute
25 liability in any cause of action against the property owner.

26 (c) Subsection (a) of this section does not apply to intentional or
27 reckless conduct by the property owner.

28
29 16-131-105. Cause of action.

30 (a)(1)(A) If a property owner does not permit all nonemployees on the
31 property to carry a loaded firearm, then an individual who is injured or
32 otherwise damaged on the property in a manner that could have been avoided or
33 lessened had the individual or any other person been carrying a loaded
34 firearm at the time of the injury or damage may bring a civil cause of action
35 against the property owner.

36 (B) If an individual is committing, attempting to commit,

1 conspiring to commit, soliciting another person to commit, or is an
2 accomplice to a criminal offense immediately prior to or during the
3 circumstances that led to the individual's injury or damage, he or she may
4 not bring a civil cause of action under this section for the injury or damage
5 if the criminal offense involves:

- 6 (i) Violence;
- 7 (ii) Sexual misconduct;
- 8 (iii) Damage to property; or
- 9 (iv) Theft.

10 (2) An individual bringing a civil cause of action under this
11 section may recover all of the following types of damages:

- 12 (A) Speculative damages;
- 13 (B) Future damages;
- 14 (C) Damages for mental anguish;
- 15 (D) Punitive damages;
- 16 (E) Actual attorney's fees or reasonable attorney's fees,

17 whichever are higher;

18 (F) Court costs; and

19 (G) Three (3) times the combined amount of the damages
20 under this subdivision (a)(2).

21 (3) If a plaintiff makes a prima facie case under subdivision
22 (a)(1) of this section, the property owner shall have the burden of proving
23 that the injury or damage could not have been avoided or lessened even if the
24 individual or any other person had been carrying a loaded firearm.

25 (b) A property owner that allowed all nonemployees to carry a loaded
26 firearm on the property at the time of the injury or damage is immune from
27 suit for the cause of action under this section.

28 (c) If a property owner asserts an unsuccessful counterclaim against
29 an individual who prevails in bringing a cause of action under this section,
30 the property owner is liable for the attorney's fees and costs of the
31 individual defending against the unsuccessful counterclaim.

32
33 16-131-106. Exceptions.

34 (a) A property owner may prohibit an individual from carrying a loaded
35 firearm on the property and remain protected from civil liability under § 16-
36 1313-104 and immune from suit under § 16-131-105 if the individual:

1 (1) Is legally prohibited from carrying a firearm under § 5-73-
 2 103;

3 (2) Has been convicted of an offense involving:

4 (A) Public intoxication;

5 (B) Sexual misconduct;

6 (C) Violence;

7 (D) Property destruction; or

8 (E) Theft;

9 (3) Is under eighteen (18) years of age;

10 (4) Is consuming alcohol, unlawfully using a controlled
 11 substance, or intoxicated while on the property;

12 (5) Is a former employee of the property owner; or

13 (6) Has been arrested for an offense on any property of the
 14 property owner and the outcome of that arrest is still pending or resulted in
 15 a conviction.

16 (b) A person who believes they have been wrongfully denied the right
 17 to carry a loaded firearm on a property based on the property owner invoking
 18 one (1) or more of the exceptions under subsection (a) of this section may
 19 file a complaint with the county sheriff's office, who shall maintain a
 20 record of:

21 (1) The name of a person making the complaint;

22 (2) The names of witnesses to a situation in which a person
 23 believes they were wrongfully denied the right to carry a loaded firearm on
 24 the property;

25 (3) Contact information for each person making the complaint and
 26 any witnesses; and

27 (4) The person's statement as to why he or she believes he or
 28 she was wrongfully denied the right to carry a loaded firearm on the
 29 property.