

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2215

By: West (Kevin)

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5
6 AS INTRODUCED

7 An Act relating to tort liability for firearm
8 lawsuits; providing definitions; prohibiting certain
9 lawsuits against firearm, firearm accessory, or
10 ammunition manufacturers, distributors, dealers,
11 importers, exporters, trade associations and their
12 owners, shareholder, directors and employees;
13 providing that if a defendant files a motion
14 asserting that a plaintiff has filed a prohibited
15 lawsuit the court shall stay all proceedings and
16 shall dismiss the civil action with prejudice in
17 regard to all prohibited causes of action and claims;
18 providing that an order denying a motion may be
19 appealed; providing for awarding of attorney fees;
20 providing exemptions; providing that in any civil
21 action or proceeding not barred by this section all
22 claims for relief contained in the complaint must be
23 plead with specificity; repealing 76 O.S. 2021,
24 Sections 52.1 and 52.2, which relate to firearm
liability limitation; providing for codification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 55 of Title 76, unless there is
created a duplication in numbering, reads as follows:

A. As used in this section:

- 1 1. "Ammunition" means a projectile or cartridge case, primer,
2 bullet, or propellant powder designed for use in a firearm;
- 3 2. "Dealer" means
- 4 a. any person engaged in the business of selling
5 firearms, firearm accessories or ammunition at
6 wholesale or retail,
- 7 b. any person engaged in the business of gunsmithing
8 including repairing firearms or of making or fitting
9 special barrels, stocks, or trigger mechanisms to
10 firearms, or
- 11 c. any person who is a pawnbroker licensed by the federal
12 government to sell firearms. A "dealer" is not a
13 manufacturer, importer, exporter, or trade
14 association;
- 15 3. "Exporter" means a person engaged in foreign commerce of
16 firearms, firearm accessories, or ammunition for purposes of sale or
17 distribution outside the United States;
- 18 4. "Firearm" means a weapon that acts by force of gunpowder;
- 19 5. "Firearm accessory" means a device designed or adapted to
20 enable the wearing or carrying about one's person, or the storage or
21 mounting in or on a conveyance, of a firearm or an attachment or
22 device designed or adapted to be inserted into or affixed onto a
23 firearm to enable, alter, or improve the functioning or capabilities
24 of a firearm;

1 6. "Importer" means any person engaged in the business of
2 importing or bringing firearms, firearm accessories or ammunition
3 into the United States for purposes of sale or distribution within
4 the United States;

5 7. "Manufacturer" means a person who is engaged in the business
6 of manufacturing and licensed as a manufacturer under chapter 44 of
7 title 18 of the United States Code or who manufactures firearm
8 accessories or components of ammunition;

9 8. "Person" means any individual, corporation, business trust,
10 estate, trust, partnership, limited liability company, association,
11 governmental entity or body politic or other organization; and

12 9. "Trade association" means a corporation, unincorporated
13 association, federation, business league, or professional or
14 business organization not organized or operated for profit that
15 meets all of the following criteria:

16 a. no part of its net earnings inures to the benefit of
17 any private shareholder or individual;

18 b. it is an organization described in 26 USC 501 (c) (6)
19 and exempt from tax under section 26 USC 501 (a);

20 c. two or more of its members are manufacturers,
21 distributors, dealers, importers or exporters of
22 firearms, firearm accessories or ammunition.

23 B. A person may not bring, file, or maintain any civil action
24 or proceeding against a firearm, firearm accessory, or ammunition

1 manufacturer, distributor, dealer, importer, exporter, or trade
2 association, or the owners, shareholders, directors, and employees
3 of any such entity, for any of the following:

4 1. Recovery of damages, punitive damages, restitution, fines,
5 penalties, injunctive or declaratory relief or other remedy relating
6 to the design, manufacture, distribution, advertising, marketing, or
7 sale of a firearm, firearm accessory, or ammunition;

8 2. Recovery of damages, punitive damages, restitution, fines,
9 penalties, injunctive or declaratory relief or other remedy
10 resulting from the criminal or unlawful use of a firearm, firearm
11 accessory, or ammunition by a third party; and

12 3. Recovery of damages, punitive damages, restitution, fines,
13 penalties, injunctive or declaratory relief or other remedy based on
14 any legal theory that the marketing or advertising of a firearm,
15 firearm accessories or ammunition was the cause of any personal
16 injury, death, or property damage or caused or contributed to the
17 creation or maintaining of a public nuisance.

18 C. 1. If a defendant files a motion asserting that a plaintiff
19 has filed a civil action or special proceeding prohibited under this
20 section, the court shall stay all proceedings including discovery
21 and decide the motion based on the pleadings. If the court
22 determines the plaintiff has filed a civil action or proceeding
23 asserting any cause of action or claim prohibited under this
24 section, then such finding shall constitute conclusive evidence that

1 the civil action or special proceeding is prohibited by law and the
2 court shall immediately dismiss the civil action or proceeding or
3 dismiss with prejudice all prohibited causes of action and claims
4 set forth in the complaint. An order denying such motion, in whole
5 or in part, may be appealed.

6 2. If a civil action or proceeding, or any cause(s) of action
7 or claim(s), is dismissed pursuant to this provision, the court
8 shall award to the defendant their costs and reasonable attorney
9 fees incurred in defending against the civil action or proceeding or
10 any dismissed cause(s) of action or claim(s). In cases that were
11 pending on the date of enactment of this Section, the court shall
12 only award attorney fees as of the date the defendant notifies the
13 plaintiff in writing that this Section has gone into effect and
14 requests that the plaintiff voluntarily dismiss the civil action or
15 special proceeding, or all prohibited cause(s) of action or
16 claim(s).

17 D. 1. Nothing in this section prohibits a person from filing,
18 bringing, or maintaining a civil action or special proceeding
19 against a firearm, firearm accessory, or ammunition manufacturer,
20 distributor, dealer, importer, exporter, or trade association for
21 any of the following:

22 a. breach of contract or warranty concerning firearms,
23 firearm accessories, or ammunition purchased by a
24 person,

1 b. death, physical injuries, or property damage resulting
2 directly from a defect in design or manufacture of the
3 product when the product is used as designed and
4 intended or in a reasonably foreseeable manner, except
5 that where the discharge of the firearm or ammunition
6 was caused by a volitional act that constituted an
7 unlawful or criminal offense, regardless of whether
8 the person discharging the firearm or ammunition was
9 criminally charged, prosecuted or convicted or is
10 charged as a juvenile, then such volitional act shall
11 be considered the sole proximate cause of any
12 resulting death, personal injuries, or property
13 damage,

14 c. death or physical injuries resulting directly from the
15 sale of a firearm, firearm accessory or ammunition in
16 violation of a federal or state law or regulation
17 specifically and exclusively regulating the sale of
18 firearms, firearm accessories or ammunition, or

19 d. a civil action or special proceeding against a dealer
20 for death or physical injuries resulting directly from
21 the negligent entrustment by the dealer of a firearm
22 or ammunition for use by another person when the
23 dealer knows, or reasonably should know, the person to
24 whom the firearm or ammunition is supplied is likely

1 to, and does in fact, use the product in a manner
2 involving unreasonable risk of physical injury to
3 others.

4 2. In any civil action or proceeding not barred by this
5 section all claims for relief contained in the complaint must be
6 plead with specificity.

7 SECTION 2. REPEALER 76 O.S. 2021, Sections 52.1 and
8 52.2, is hereby repealed.

9 SECTION 3. This act shall become effective November 1, 2023.

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11 59-1-6557 JL 01/11/23
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