



Rep. Margaret Croke

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10200HB4156ham001

LRB102 20323 LNS 35839 a

1 AMENDMENT TO HOUSE BILL 4156

2 AMENDMENT NO. _____. Amend House Bill 4156 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title; references to Act.

5 (a) Short title. This Act may be cited as the Firearms
6 Straw Purchaser Liability Act.

7 (b) References to Act. This Act may be referred to as the
8 Protecting Heartbeats Act.

9 Section 5. Findings. The General Assembly finds, according
10 to contemporary medical research, that:

11 (1) firearms pose a risk to State residents' health
12 and life when used illegally or improperly;

13 (2) the discharge of firearms in an unlawful manner to
14 cause bodily injury or death has become a key medical
15 predictor that the health and life of a State resident is
16 endangered;

1 (3) the discharge of firearms in an unlawful manner
2 that causes bodily injury or death does not advance either
3 an individual or collective right to keep or bear arms
4 under the Second Amendment of the United States
5 Constitution; and

6 (4) the State has compelling interest in protecting
7 the health and the life of State residents

8 Section 10. Definitions. As used in this Act:

9 "Dealer" means any person or entity that transfers a
10 firearm to another person or entity.

11 "Firearm" has the same meaning as in the Firearm Owners
12 Identification Card Act.

13 "Prospective firearm owner" means a person who is
14 attempting to acquire a firearm.

15 Section 15. Liability.

16 (a) Any dealer of a firearm who illegally transfers a
17 firearm shall be held strictly liable, without regard to fault
18 or proof of defect, for any bodily injury or death if the
19 bodily injury or death proximately results from the unlawful
20 discharge of the firearm in this State.

21 (b) An action for the violation of this Act may be brought
22 by:

23 (1) if the violation caused a nonfatal injury, the
24 injured person or, if the injured person is a minor, by the

1 injured minor's guardian; or

2 (2) if the violation caused the death of a person, by
3 the deceased person's personal representative.

4 Section 20. Damages. If a claimant prevails in an action
5 brought under this Act, the court shall award:

6 (1) injunctive relief sufficient to prevent the
7 defendant from violating this Act;

8 (2) statutory damages in an amount of not less than
9 \$10,000 for each individual injured or killed by a firearm
10 that the defendant dealt; and

11 (3) costs and attorney's fees.

12 Section 25. Limitations.

13 (a) Notwithstanding any other law, the following are not
14 defenses to an action brought under this Act:

15 (1) ignorance or mistake of law;

16 (2) a defendant's belief that the requirements of this
17 Act are unconstitutional or were unconstitutional;

18 (3) a defendant's reliance on any court decision that
19 has been overruled on appeal or by a subsequent court,
20 even if that court decision had not been overruled when
21 the defendant engaged in conduct that violates this Act;

22 (4) a defendant's reliance on any State or federal
23 court decision that is not binding on the court in which
24 the action has been brought;

1 (5) nonmutual issue preclusion or nonmutual claim
2 preclusion; or

3 (6) any claim that the enforcement of this Act or the
4 imposition of civil liability against the defendant will
5 violate the constitutional rights of third parties.

6 (b) A defendant against whom an action is brought under
7 this Act does not have standing to assert the rights of a
8 firearm owner, prospective firearm owner, or group of firearm
9 owners or prospective firearm owners as a defense to liability
10 unless:

11 (1) the United States Supreme Court holds that courts
12 of this State must confer standing on that defendant to
13 assert the third-party rights of a firearm owner,
14 prospective firearm owner, or group of firearm owners or
15 prospective firearm owners in State court as a matter of
16 federal constitutional law; or

17 (2) the defendant has standing to assert the rights of
18 a firearm owner, prospective firearm owner, or group of
19 firearm owners or prospective firearm owners under the
20 tests of third-party standing established by the United
21 States Supreme Court.

22 (c) A defendant in an action brought under this Act may
23 assert an affirmative defense to liability if:

24 (1) the defendant has standing to assert the
25 third-party rights of a firearm owner, prospective firearm
26 owner, or group of firearm owners or prospective firearm

1 owners; or

2 (2) the defendant demonstrates that the relief sought
3 by the claimant will impose an impermissible burden on the
4 firearm owner, prospective firearm owner, or group of
5 firearm owners and prospective firearm owners.

6 (d) A court may not find an impermissible burden or an
7 infringement on the right to keep or bear arms unless a
8 defendant introduces evidence proving that:

9 (1) an award of relief will prevent a firearm owner,
10 prospective firearm owners, or group of firearm owners or
11 prospective firearm owners from legally acquiring
12 firearms; or

13 (2) an award of relief will place a substantial
14 obstacle in the path of a firearm owner, prospective
15 firearm owners, or group of firearm owners or prospective
16 firearm owners who are seeking to legally acquire
17 firearms.

18 (e) A defendant may not establish an impermissible burden
19 or an infringement on the right to keep or bear arms under this
20 Section by:

21 (1) merely demonstrating that an award of relief will
22 prevent a firearm owner, prospective firearm owners, or
23 group of firearm owners or prospective firearm owners from
24 obtaining support or assistance, financial or otherwise,
25 from others in their efforts to acquire firearms; or

26 (2) arguing or attempting to argue that an award of

1 relief against other defendants or other potential
2 defendants will impose an impermissible burden or infringe
3 on the right to keep or bear arms on a firearm owner,
4 prospective firearm owners, or group of firearm owners or
5 prospective firearm owners.

6 (f) The requirements of this Act shall be enforced
7 exclusively through the private civil actions described in
8 this Act. No enforcement of this Act may be taken or threatened
9 by this State, a political subdivision, a State's Attorney, or
10 an executive or administrative officer or employee of this
11 State or a political subdivision.

12 (g) A court may not award relief under this Act if the
13 defendant demonstrates that the defendant previously paid the
14 full amount of statutory damages under this Act in a previous
15 action for that particular bodily injury or death.

16 (h) No action may be brought under this Act by a person
17 injured by a firearm during the commission of a crime, or his
18 or her agent, if the injured person was involved in the
19 commission of such crime.

20 (i) No action may be brought under this Act by a person
21 injured by a firearm who intentionally self-inflicted said
22 injury, or his or her agent.

23 (j) A person may bring an action under this Act within 4
24 years from the date of bodily injury or death.

25 (k) This Act shall not limit in scope any cause of action
26 available to a person injured or killed by a firearm.

1 Section 30. Venue. A civil action brought under this Act
2 shall be brought in:

3 (1) the county in which all or a substantial part of
4 the events or omissions giving rise to the claim occurred;

5 (2) the county or residence of any one of the natural
6 person defendants at the time of the cause of action
7 accrued;

8 (3) the county of the principal office in this State
9 of any of the defendants that is not a natural person; or

10 (4) the county or residence for the claimant if the
11 claimant is a natural person residing in this State.

12 If a civil action is brought under this Act in any one of
13 the venues described in this Act, the action may not be
14 transferred to a different venue without the written consent
15 of all parties.

16 Section 97. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes."