



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4156

Introduced 10/19/2021, by Rep. Margaret Croke - Maura Hirschauer and Jonathan Carroll

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Firearms Dealer and Importer Liability Act. Provides that the Act may be referred to as the Protecting Heartbeats Act. Provides that any manufacturer, importer, or dealer of a firearm shall be held strictly liable for any bodily injury or death if the bodily injury or death proximately results from the unlawful discharge of the firearm in the State. Allows any person, other than an officer or employee of a State or local governmental entity, to bring a civil action against any person or entity who violates the Act. Requires the court to award a prevailing claimant: (1) injunctive relief; (2) statutory damages in an amount of not less than \$10,000 for each individual injured or killed by a firearm that the defendant manufactured, imported, or dealt; and (3) costs and attorney's fees. Provides for various limitations.

LRB102 20323 LNS 29178 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title; references to Act.

5 (a) Short title. This Act may be cited as the Firearms  
6 Dealer and Importer 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;

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

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

22 (4) the State has compelling interest in protecting  
23 the health and the life of State residents

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

2 "Dealer" means any person or entity that transfers a  
3 firearm to another person or entity.

4 "Firearm" has the same meaning as in the Firearm Owners  
5 Identification Card Act.

6 "Importer" means any person or entity engaged in the  
7 business of importing or bringing firearms into the United  
8 States for purposes of sale or distribution.

9 "Prospective firearm owner" means a person who is  
10 attempting to acquire a firearm.

11 Section 15. Liability.

12 (a) Any manufacturer, importer, or dealer of a firearm  
13 shall be held strictly liable, without regard to fault or  
14 proof of defect, for any bodily injury or death if the bodily  
15 injury or death proximately results from the unlawful  
16 discharge of the firearm in this State.

17 (b) Any person, other than an officer or employee of a  
18 State or local governmental entity in this State, may bring a  
19 civil action against any person or entity who violates this  
20 Act.

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

23 (1) injunctive relief sufficient to prevent the

1 defendant from violating this Act;

2 (2) statutory damages in an amount of not less than  
3 \$10,000 for each individual injured or killed by a firearm  
4 that the defendant manufactured, imported, or dealt; and

5 (3) costs and attorney's fees.

6 Section 25. Required documentation.

7 (a) Any manufacturer, importer, or dealer who transfers a  
8 firearm shall execute a written document that certifies that  
9 the firearm shall not be used to cause bodily injury or death  
10 in violation of this Act.

11 (b) The manufacturer, importer, or dealer shall maintain a  
12 copy of the document described by subsection (a) in their  
13 records.

14 Section 30. Limitations.

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

17 (1) ignorance or mistake of law;

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

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

24 (4) a defendant's reliance on any State or federal

1 court decision that is not binding on the court in which  
2 the action has been brought;

3 (5) nonmutual issue preclusion or nonmutual claim  
4 preclusion;

5 (6) the consent of the injured party; or

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

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

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

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

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

1           (1) the defendant has standing to assert the  
2 third-party rights of a firearm owner, prospective firearm  
3 owner, or group of firearm owners or prospective firearm  
4 owners; or

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

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

12           (1) an award of relief will prevent a firearm owner,  
13 prospective firearm owners, or group of firearm owners or  
14 prospective firearm owners from legally acquiring  
15 firearms; or

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

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

24           (1) merely demonstrating that an award of relief will  
25 prevent a firearm owner, prospective firearm owners, or  
26 group of firearm owners or prospective firearm owners from

1 obtaining support or assistance, financial or otherwise,  
2 from others in their efforts to acquire firearms; or

3 (2) arguing or attempting to argue that an award of  
4 relief against other defendants or other potential  
5 defendants will impose an impermissible burden or infringe  
6 on the right to keep or bear arms on a firearm owner,  
7 prospective firearm owners, or group of firearm owners or  
8 prospective firearm owners.

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

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

19 (h) No firearm originally distributed to a government  
20 entity or government employee in his or her official capacity  
21 shall provide the basis for liability.

22 (i) No action may be brought under this Act by a person  
23 injured by a firearm during the commission of a crime, or his  
24 or her agent, if the injured person was involved in the  
25 commission of such crime.

26 (j) No action may be brought under this Act by a person

1 injured by a firearm who intentionally self-inflicted said  
2 injury, or his or her agent.

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

5 (l) This Act shall not limit in scope any cause of action  
6 available to a person injured or killed by a firearm.

7 Section 40. Venue. A civil action brought under this Act  
8 shall be brought in:

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

11 (2) the county or residence of any one of the natural  
12 person defendants at the time of the cause of action  
13 accrued;

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

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

18 If a civil action is brought under this Act in any one of  
19 the venues described in this Act, the action may not be  
20 transferred to a different venue without the written consent  
21 of all parties.

22 Section 97. Severability. The provisions of this Act are  
23 severable under Section 1.31 of the Statute on Statutes.