

SB0085



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0085

Introduced 1/30/2009, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

New Act

Creates the Firearm Liability Act. Provides that a firearm transferor is strictly liable in a civil action for death, injury, or property damage resulting from the use of a firearm that was unlawfully sold, transferred, or caused to be sold or transferred. Provides that the plaintiff may recover punitive damages in addition to all other lawful damages, court costs, and attorney's fees. Provides that a defendant found strictly liable under this Act must pay \$10,000 in a civil penalty to the Department of State Police if the defendant sold, transferred, or caused to be sold or transferred a firearm in violation of certain provisions of the Firearm Owners Identification Card Act or the Criminal Code of 1961. Provides that an action under this Act must be commenced within 5 years after the cause of action accrued.

LRB096 04788 RLC 14852 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to firearm liability.

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

4 Section 1. Short title. This Act may be cited as the
5 Firearm Liability Act.

6 Section 5. Definitions. In this Act:

7 "Firearm" has the meaning ascribed to it in Section 1.1 of
8 the Firearm Owners Identification Card Act.

9 "Firearm transferor" means a person who sells, transfers,
10 or causes the sale or transfer of a firearm to another person.

11 Section 10. Firearm transferor liability. If it was
12 unlawful at the time of the sale or transfer of a firearm (i)
13 for the firearm transferor to make or cause to be made the sale
14 or transfer of the firearm to another person or (ii) for that
15 other person to purchase, receive, or possess the firearm, then
16 the firearm transferor is strictly liable in a civil action for
17 any death, injury, or damage to property proximately caused by
18 the use of that firearm. Liability under this Act is in
19 addition to any other statutory or common law liability.

20 Section 15. Persons who may bring action and recover
21 damages.

1 (a) A civil action under this Act may be brought and
2 damages may be recovered by the person injured or by the person
3 whose property was damaged by the use of the firearm. If the
4 person entitled to bring an action and recover damages is a
5 minor, the action may be brought and damages recovered on
6 behalf of the minor by the minor's parent or legal guardian or
7 by the guardian of the estate of the minor. If the person
8 entitled to bring an action and recover damages is a disabled
9 person, the action may be brought and damages recovered by the
10 guardian of the estate of the disabled person. If the person
11 entitled to bring an action and recover damages is deceased,
12 but was not killed by the use of the firearm, the action may be
13 brought and damages recovered by the personal representative of
14 the decedent's estate on behalf of the estate.

15 (b) If a person was killed by the use of the firearm, an
16 action may be brought and damages recovered by the personal
17 representative of the decedent's estate, and, except as
18 otherwise provided in this Section, the amount recovered in the
19 action shall be for the exclusive benefit of the surviving
20 spouse and next of kin of the deceased person. The amount
21 recovered in the action shall be distributed by the court in
22 which the cause is heard, or by the circuit court in the case
23 of an agreed settlement, to each of the surviving spouse and
24 next of kin of the deceased person in the proportion, as
25 determined by the court, that the percentage of dependency of
26 each of those persons upon the deceased person bears to the sum

1 of the percentages of dependency of all of those persons upon
2 the deceased person.

3 If the deceased person left no surviving spouse or next of
4 kin entitled to recovery, the damages shall inure to the
5 exclusive benefit of the decedent's estate.

6 Section 20. Recovery of damages. If the trier of fact
7 finds by a preponderance of the evidence that the defendant is
8 strictly liable under this Act, the plaintiff may recover
9 punitive damages in addition to all other lawful damages, court
10 costs, and attorney's fees.

11 Section 25. Civil penalty. If the trier of fact finds that
12 the defendant is strictly liable under this Act and finds that
13 the defendant sold, transferred, or caused the sale or transfer
14 of a firearm in violation of Section 3 of the Firearm Owners
15 Identification Card Act or Section 24-3, 24-3.3, 24-3.4, or
16 24-3A of the Criminal Code of 1961, the court, in addition to
17 any other damages, shall assess a civil penalty of \$10,000 to
18 be paid to the Department of State Police and deposited into
19 the State Police Services Fund.

20 Section 30. Statute of limitations. An action under this
21 Act must be commenced within 5 years after the cause of action
22 accrued.