



Reprinted
April 14, 2015

ENGROSSED SENATE BILL No. 98

DIGEST OF SB 98 (Updated April 13, 2015 4:53 pm - DI 123)

Citations Affected: IC 34-12.

Synopsis: Lawsuits against gun manufacturers. Prohibits a person from bringing certain actions against a firearms manufacturer, ammunition manufacturer, trade association, or seller, and makes the prohibition effective upon passage. Prohibits awards for attorney's fees and incurred costs in certain instances.

Effective: Upon passage; August 26, 1999 (retroactive).

Tomes, Steele, Waltz, Becker, Messmer, Hershman, Kruse

(HOUSE SPONSORS — SMALTZ, TORR, LUCAS, STEMLER)

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

February 5, 2015, amended, reported favorably — Do Pass; reassigned to Committee on Judiciary.

February 12, 2015, reported favorably — Do Pass.

February 16, 2015, read second time, ordered engrossed. Engrossed.

February 17, 2015, returned to second reading.

February 19, 2015, re-read second time, amended, ordered engrossed.

February 20, 2015, re-engrossed.

February 23, 2015, read third time, passed. Yeas 37, nays 11.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Judiciary.

April 7, 2015, reported — Do Pass.

April 13, 2015, read second time, amended, ordered engrossed.

ES 98—LS 6180/DI 13



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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-12-3-0.1, AS ADDED BY P.L.220-2011,
2 SECTION 548, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE AUGUST 26, 1999 (RETROACTIVE)]: Sec. 0.1. ~~The~~
4 ~~addition of this chapter by P.L.19-2001~~ **This chapter** applies **only** to
5 actions filed **before**, after, **or on** April 18, 2001.

6 SECTION 2. IC 34-12-3-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE AUGUST 26, 1999 (RETROACTIVE)]:
8 Sec. 1. As used in this chapter, "firearm" ~~has the meaning set forth in~~
9 ~~IC 35-47-1-5~~: **means any weapon:**

10 **(1) that is:**
11 **(A) capable of expelling; or**
12 **(B) designed to expel; or**
13 **(2) that may readily be converted to expel;**
14 **a projectile by means of an explosion.**

15 SECTION 3. IC 34-12-3-2, AS AMENDED BY P.L.114-2012,
16 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 AUGUST 26, 1999 (RETROACTIVE)]; Sec. 2. As used in this chapter,
 2 "person" ~~has the meaning set forth in IC 35-31.5-2-234.~~ **means a**
 3 **human being, corporation, limited liability company, partnership,**
 4 **unincorporated association, or governmental entity.**

5 SECTION 4. IC 34-12-3-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE AUGUST 26, 1999 (RETROACTIVE)]:
 7 Sec. 3. Except as provided in section 5(1) or 5(2) of this chapter, a
 8 person may not bring **or maintain** an action against a firearms or
 9 ammunition manufacturer, trade association, or seller for:

10 (1) recovery of damages resulting from, or injunctive relief or
 11 abatement of a nuisance relating to, the lawful:

- 12 (A) design;
 13 (B) manufacture;
 14 (C) marketing; or
 15 (D) sale;

16 of a firearm or ammunition for a firearm; or

17 (2) recovery of damages resulting from the criminal or unlawful
 18 misuse of a firearm or ammunition for a firearm by a third party.

19 SECTION 5. IC 34-12-3-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** If a court
 21 finds that a party has brought an action under a theory of recovery
 22 described in section 3(1) or 3(2) of this chapter, the finding constitutes
 23 conclusive evidence that the action is groundless. If a court makes a
 24 finding under this section, the court shall dismiss the claims or action
 25 and award to the defendant any reasonable attorney's fee and costs
 26 incurred in defending the claims or action.

27 **(b) If:**

28 **(1) a party has brought an action under a theory of recovery**
 29 **described in section 3(1) or 3(2) of this chapter;**

30 **(2) the action commenced on or before August 27, 1999; and**

31 **(3) the action is dismissed;**

32 **no award for attorney's fees or costs incurred shall issue to the**
 33 **plaintiff or the defendant.**

34 SECTION 6. IC 34-12-3-5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE AUGUST 26, 1999 (RETROACTIVE)]:
 36 Sec. 5. Nothing in this chapter may be construed to prohibit a person
 37 from bringing **or maintaining** an action against a firearms or
 38 ammunition manufacturer, trade association, or seller for recovery of
 39 damages for the following:

40 (1) Breach of contract or warranty concerning firearms or
 41 ammunition purchased by a person.

42 (2) Damage or harm to a person or to property owned or leased by



1 a person caused by a defective firearm or ammunition.
2 (3) Injunctive relief to enforce a valid statute, rule, or ordinance.
3 However, a person may not bring an action seeking injunctive
4 relief if that action is barred under section 3 of this chapter.
5 **SECTION 7. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 98, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 98 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 98, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 98 as printed February 6, 2015.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 1

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SENATE MOTION

Madam President: I move that Engrossed SB 98, which is eligible for third reading, be returned to second reading for purposes of amendment.

TOMES

SENATE MOTION

Madam President: I move that Senate Bill 98 be amended to read as follows:

Page 2, delete lines 19 through 27.

Re-number all SECTIONS consecutively.

(Reference is to SB 98 as printed February 13, 2015.)

STEELE

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 98, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 98 as reprinted February 20, 2015.)

STEUERWALD

Committee Vote: Yeas 7, Nays 4



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 98 be amended to read as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 4. IC 34-12-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** If a court finds that a party has brought an action under a theory of recovery described in section 3(1) or 3(2) of this chapter, the finding constitutes conclusive evidence that the action is groundless. If a court makes a finding under this section, the court shall dismiss the claims or action and award to the defendant any reasonable attorney's fee and costs incurred in defending the claims or action.

(b) If:

(1) a party has brought an action under a theory of recovery described in section 3(1) or 3(2) of this chapter;
(2) the action commenced on or before August 27, 1999; and
(3) the action is dismissed;
no award for attorney's fees or costs incurred shall issue to the plaintiff or the defendant."

Renumber all SECTIONS consecutively.

(Reference is to ESB 98 as printed April 7, 2015.)

SMALTZ

