

As Introduced

**124th General Assembly
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H. B. No. 192

**REPRESENTATIVES Callender, Willamowski, Brinkman, Seaver, Lendrum,
Roman, Young, Collier, Williams, Reidelbach, Gilb, Evans, Calvert, Seitz,
Schmidt, Carmichael, Schaffer, Latta, Fessler, Husted, Grendell, Faber,
Buehrer, Core, Bocchieri, Clancy, Womer Benjamin, Aslanides, Distel, Setzer,
Carano, Webster**

A B I L L

To enact section 2305.401 of the Revised Code to
provide a qualified immunity from civil liability
and injunctive relief to members of the firearms
industry that will be both prospective and
retroactive in its application.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2305.401 of the Revised Code be
enacted to read as follows:

Sec. 2305.401. (A) As used in this section:

(1) "Ammunition" means any projectile capable of being
expelled or propelled from a firearm by the action of an explosive
or combustible propellant.

(2) "Firearm" has the same meaning as in section 2923.11 of
the Revised Code.

(3) Except as provided in division (C)(2) of this section,
"harm" means injury, death, or loss to person or property.

(4) "Member of the firearms industry" means trade associations of manufacturers, dealers, importers, or other persons interested in, and manufacturers, dealers, and importers of, firearms, firearms components, or firearms ammunition. 16
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(5) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes all governmental entities. 20
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(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons. 22
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(B)(1) Except as provided in divisions (B)(2) and (3) of this section and subject to division (C) of this section, a member of the firearms industry is not liable in damages in, and is not subject to a grant of injunctive relief in, a tort or other civil action for harm allegedly sustained by any person as a result of the operation or discharge of a firearm. Except as provided in divisions (B)(2) and (3) of this section and subject to division (C) of this section, a person who allegedly sustains harm as a result of the operation or discharge of a firearm or that person's personal representative does not have a claim for relief against, and may not recover damages or injunctive relief in a tort or other civil action against, a member of the firearms industry based upon that harm. 26
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(2) A member of the firearms industry forfeits the immunity from civil liability and injunctive relief conferred by division (B)(1) of this section if the member of the firearms industry operates or discharges the firearm that results in the harm that is the basis of the claim for relief in the tort or other civil action in a manner that constitutes negligence, willful or wanton misconduct, or intentionally tortious conduct or that constitutes a criminal violation of law. 39
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(3) A member of the firearms industry forfeits the immunity from civil liability and injunctive relief conferred by division (B)(1) of this section if the member of the firearms industry sells, lends, gives, or furnishes to any person, in violation of section 2923.20 or 2923.21 or another section of the Revised Code or in violation of federal law, the firearm that results in the harm that is the basis of the claim for relief in the tort or other civil action.

(C)(1) This section does not create a new cause of action or substantive legal right against a member of the firearms industry.

(2) This section does not limit the availability against a member of the firearms industry of a civil action that seeks damages for harm and that is based on a product liability claim authorized by Chapter 2307. of the Revised Code. As used in this division, "harm" and "product liability claim" have the same meanings as in section 2307.71 of the Revised Code.

(3) This section does not limit the availability against a member of the firearms industry of a civil action for a breach of an express provision of a contract or of another agreement between persons, or a civil action for a breach of an express warranty, pertaining to firearms, firearms components, or firearms ammunition.

(D) This section applies to tort or other civil actions commenced on or after the effective date of this section, or commenced prior to and pending on the effective date of this section, for damages or injunctive relief based upon harm allegedly sustained by any person as a result of the operation or discharge of a firearm prior to, on, or after the effective date of this section.

Section 2. It is the intent of the General Assembly in enacting division (D) of section 2305.401 of the Revised Code in

this act to provide for both the prospective and retroactive 78
application of the qualified immunity from civil liability and 79
injunctive relief provisions of section 2305.401 of the Revised 80
Code, as enacted by this act. If, however, the Ohio Supreme Court 81
determines, in any litigation that may be commenced to contest the 82
constitutionality of the qualified immunity from civil liability 83
and injunctive relief provisions of section 2305.401 of the 84
Revised Code, that the retroactive application of those provisions 85
would be violative of either the United States Constitution or the 86
Ohio Constitution, it is the intent of the General Assembly that 87
the severability provision of section 1.50 of the Revised Code be 88
applied, that the qualified immunity from civil liability and 89
injunctive relief provisions of divisions (A), (B), and (C) of 90
section 2305.401 of the Revised Code be severed from the 91
unconstitutional provisions of division (D) of that section, and 92
that the qualified immunity from civil liability and injunctive 93
relief provisions of divisions (A), (B), and (C) of section 94
2305.401 of the Revised Code be given prospective application 95
consistent with section 1.48 of the Revised Code. 96