

As Passed by the House

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Am. H. B. No. 192

REPRESENTATIVES Callender, Willamowski, Brinkman, Seaver, Lendrum,
Roman, Young, Collier, Williams, Reidelbach, Gilb, Evans, Calvert, Schmidt,
Carmichael, Schaffer, Latta, Fessler, Husted, Grendell, Faber, Buehrer, Core,
Boccieri, Clancy, Womer Benjamin, Aslanides, Distel, Setzer, Carano,
Webster, Manning, Flowers, Peterson, Metzger, Blasdel, Hoops, Cates, Raga,
Wolpert, Coates, Widowfield, DeWine, Hagan, Niehaus

A B I L L

To enact section 2305.401 of the Revised Code as a
general law 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.

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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:

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

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

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

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(3) Except as provided in division (C)(2) of this section,

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"harm" means injury, death, or loss to person or property.

(4) "Member of the firearms industry" means any manufacturer, dealer, or importer of firearms, firearms components, or firearms ammunition or any trade association the members of which, in whole or in part, are manufacturers, dealers, or importers of firearms, firearms components, or firearms ammunition.

(5) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes all governmental entities.

(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.

(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.

(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.

(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.

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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
application of the qualified immunity from civil liability and
injunctive relief provisions of section 2305.401 of the Revised
Code, as enacted by this act as a general law. If, however, the
Ohio Supreme Court determines, in any litigation that may be
commenced to contest the constitutionality of the qualified
immunity from civil liability and injunctive relief provisions of
section 2305.401 of the Revised Code, that the retroactive
application of those provisions would be violative of either the
United States Constitution or the Ohio Constitution, it is the
intent of the General Assembly that the severability provision of
section 1.50 of the Revised Code be applied, that the qualified
immunity from civil liability and injunctive relief provisions of
divisions (A), (B), and (C) of section 2305.401 of the Revised
Code be severed from the unconstitutional provisions of division
(D) of that section, and that the qualified immunity from civil
liability and injunctive relief provisions of divisions (A), (B),
and (C) of section 2305.401 of the Revised Code be given
prospective application consistent with section 1.48 of the
Revised Code.

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