



January 14, 2000

## SENATE BILL No. 45

DIGEST OF SB 45 (Updated January 13, 2000 8:47 AM - DI 76)

**Citations Affected:** IC 34-12; noncode.

**Synopsis:** Legal actions involving firearms. Prohibits an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or any governmental entity from bringing an action against a firearms or ammunition manufacturer, trade association, or seller for: (1) recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of a firearm or ammunition for a firearm; or (2) recovery of damages resulting from the criminal or unlawful misuse of a firearm or ammunition for a firearm by a third party.

**Effective:** Upon passage.

**Meeks R, Nugent, Waterman**

November 17, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.  
January 13, 2000, amended, reported favorably — Do Pass.

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SB 45—LS 6112/DI 69+



January 14, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## SENATE BILL No. 45

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and local government.

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

- 1 SECTION 1. IC 34-12-3 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:  
4 **Chapter 3. Legal Actions Involving Firearms and Ammunition**  
5 **Manufacturers, Trade Associations, and Sellers**  
6 **Sec. 1. As used in this chapter, "firearm" has the meaning set**  
7 **forth in IC 35-47-1-5.**  
8 **Sec. 2. As used in this chapter, "person" has the meaning set**  
9 **forth in IC 35-41-1-22.**  
10 **Sec. 3. Except as provided in section 5 of this chapter, a person**  
11 **may not bring an action against a firearms or ammunition**  
12 **manufacturer, trade association, or seller for:**  
13 **(1) recovery of damages resulting from, or injunctive relief or**  
14 **abatement of a nuisance relating to, the lawful:**  
15 **(A) design;**  
16 **(B) manufacture;**  
17 **(C) marketing; or**

SB 45—LS 6112/DI 69+



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1                   (D) sale;  
 2                   of a firearm or ammunition for a firearm; or  
 3                   (2) recovery of damages resulting from the criminal or  
 4                   unlawful misuse of a firearm or ammunition for a firearm by  
 5                   a third party.

6                   Sec. 4. If a court finds that a party has brought an action solely  
 7                   under a theory of recovery described in section 3(1) or 3(2) of this  
 8                   chapter, the finding constitutes prima facia evidence that the action  
 9                   is groundless. Whenever a court makes a finding under this section,  
 10                  the court shall dismiss the action and award any reasonable  
 11                  attorney's fees and costs incurred in defending the action to the  
 12                  prevailing party.

13                  Sec. 5. Nothing in this chapter may be construed to prohibit a  
 14                  person from bringing an action against a firearms or ammunition  
 15                  manufacturer, trade association, or seller for recovery of damages  
 16                  for the following:

- 17                  (1) Breach of contract or warranty concerning firearms or  
 18                  ammunition purchased by a person.
- 19                  (2) Damage or harm to a person or property owned or leased  
 20                  by a person caused by a defective firearm or ammunition.
- 21                  (3) Injunctive relief to enforce a valid statute, rule, or  
 22                  ordinance.

23                  SECTION 2. [EFFECTIVE UPON PASSAGE] IC 34-12-3, as  
 24                  added by this act, applies only to actions filed after the effective  
 25                  date of this act.

26                  SECTION 3. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Nugent be added as second author and Senator Waterman be added as coauthor of Senate Bill 45.

Meeks R

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 45, 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:

Page 1, line 1, delete "IC 4-1-9" and insert "IC 34-12-3".

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 1, line 4, delete "9" and insert "3".

Page 1, between lines 7 and 8, begin a new paragraph and insert:

**"Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 35-41-1-22."**

Page 1, line 8, delete "2" and insert "3".

Page 1, line 8, delete "sections 3 and 4" and insert "section 5".

Page 1, line 8, delete "the" and insert "a".

Page 1, line 9, delete "state" and insert "person".

Page 2, delete lines 4 through 7, begin a new paragraph and insert:

**"Sec. 4. If a court finds that a party has brought an action solely under a theory of recovery described in section 3(1) or 3(2) of this chapter, the finding constitutes prima facia evidence that the action is groundless. Whenever a court makes a finding under this section, the court shall dismiss the action and award any reasonable attorney's fees and costs incurred in defending the action to the prevailing party."**

Page 2, line 8, delete "4" and insert "5".

Page 2, line 8, delete "the" and insert "a".

Page 2, line 9, delete "state" and insert "person".

Page 2, line 13, delete "the state" and insert "a person".

Page 2, line 14, after "harm to" insert "a person or".

Page 2, line 14, delete "the state" and insert "a person".

Page 2, delete lines 16 through 17.

Page 2, line 18, delete "(4)" and insert "(3)".

Page 2, delete lines 20 through 42, begin a new paragraph and insert:

**"SECTION 2. [EFFECTIVE UPON PASSAGE] IC 34-12-3, as added by this act, applies only to actions filed after the effective date of this act.**

**SECTION 3. An emergency is declared for this act."**



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Delete page 3.

and when so amended that said bill do pass.

(Reference is to SB 45 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 7, Nays 4.

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