

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Hinson offered the following:

**Amendment (with title amendment)**

Between lines 24 and 25, insert:

Section 2. Section 790.402, Florida Statutes, is created to read:

790.402 Protection of lawful commerce in arms.-

(1) As used in this section, the term:

(a) "Engaged in the business" has the meaning as in 18 U.S.C. s. 921(a)(21) and, as applied to a seller of ammunition, means a person who devotes time, attention, and labor to the sale of ammunition as a regular course of trade or business with

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13 the principal objective of livelihood and profit through the  
14 sale or distribution of ammunition.

15 (b) "Manufacturer" means, with respect to a qualified  
16 product, a person who is engaged in the business of  
17 manufacturing a product in interstate or foreign commerce and  
18 who is licensed to engage in business as such a manufacturer  
19 under chapter 44 of title 18 U.S.C.

20 (c)1. "Qualified civil liability action" means a civil  
21 action or proceeding or an administrative proceeding brought by  
22 any person against a manufacturer or seller of a qualified  
23 product or a trade association, for damages, punitive damages,  
24 injunctive or declaratory relief, abatement, restitution, fines,  
25 or penalties or other relief, resulting from the criminal or  
26 unlawful misuse of a qualified product by the person or a third  
27 party, but shall not include:

28 a. An action brought against a transferor convicted under  
29 18 U.S.C. s. 924(h), or a comparable or identical state felony  
30 law, by a party directly harmed by the conduct of which the  
31 transferee is so convicted;

32 b. An action brought against a seller for negligent  
33 entrustment or negligence per se; or

34 c. An action in which a manufacturer or seller of a  
35 qualified product knowingly violated a state or federal law  
36 applicable to the sale or marketing of the product, and the

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37 violation was a proximate cause of the harm for which relief is  
38 sought, including:

39 (I) Any case in which the manufacturer or seller knowingly  
40 made any false entry in, or failed to make appropriate entry in,  
41 any record required to be kept under federal or state law with  
42 respect to the qualified product, or aided, abetted, or  
43 conspired with any person in making any false or fictitious oral  
44 or written statement with respect to any fact material to the  
45 lawfulness of the sale or other disposition of a qualified  
46 product;

47 (II) Any case in which the manufacturer or seller aided,  
48 abetted, or conspired with any other person to sell or otherwise  
49 dispose of a qualified product, knowing, or having reasonable  
50 cause to believe, that the actual buyer of the qualified product  
51 was prohibited from possessing or receiving a firearm or  
52 ammunition under 18 U.S.C. s. 922(g) or (n);

53 (III) An action for breach of contract or warranty in  
54 connection with the purchase of the product; or

55 (IV) An action for death, physical injuries, or property  
56 damage resulting directly from a defect in design or manufacture  
57 of the product, when used as intended or in a reasonably  
58 foreseeable manner, except that where the discharge of the  
59 product was caused by a volitional act that constituted a  
60 criminal offense, then such act shall be considered the sole

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61 proximate cause of any resulting death, personal injuries or  
62 property damage.

63 2. As used in sub-subparagraph 1.b., the term "negligent  
64 entrustment" means the supplying of a qualified product by a  
65 seller for use by another person when the seller knows, or  
66 reasonably should know, the person to whom the product is  
67 supplied is likely to, and does, use the product in a manner  
68 involving unreasonable risk of physical injury to the person or  
69 others.

70 3. The exceptions enumerated under sub-subparagraph 1.c.  
71 shall be construed so as not to be in conflict, and no provision  
72 of this section creates a public or private cause of action or  
73 remedy.

74 4. This section does not limit the right of a person under  
75 17 years of age to recover damages authorized under federal or  
76 state law in a civil action that meets one of the requirements  
77 under sub-subparagraph c.

78 (d) "Qualified product" means a firearm, as defined in 18  
79 U.S.C. s. 921(a)(3)(A) or (B), including any antique firearm, as  
80 defined in 18 U.S.C. s. 921(16), or ammunition, as defined in 18  
81 U.S.C. s. 921(a)(17)(A), or a component part of a firearm or  
82 ammunition, that has been shipped or transported in interstate  
83 or foreign commerce.

84 (e) "Seller" means, with respect to a qualified product:

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85 1. An importer, as defined in 18 U.S.C. s. 921(a)(9), who  
86 is engaged in the business as such an importer in interstate or  
87 foreign commerce and who is licensed to engage in business as  
88 such an importer under chapter 44 of title 18 U.S.C.;

89 2. A dealer, as defined 18 U.S.C. s. 921(a)(11), who is  
90 engaged in the business as such a dealer in interstate or  
91 foreign commerce and who is licensed to engage in business as  
92 such a dealer under chapter 44 of title 18 U.S.C.; or

93 3. A person engaged in the business of selling ammunition,  
94 as defined in 18 U.S.C. s. 921(a)(17)(A) at the wholesale or  
95 retail level.

96 (f) "Trade association" means:

97 1. Any corporation, unincorporated association,  
98 federation, business league, or professional or business  
99 organization which is not organized or operated for profit and  
100 is not a part of the net earnings of which inures to the benefit  
101 of any private shareholder or individual;

102 2. An organization described in 26 U.S.C. s. 501(c)(6) and  
103 exempt from tax under 26 U.S.C. s. 501(a); and

104 3. Two or more members of which are manufacturers or  
105 sellers of a qualified product.

106 (g) "Unlawful misuse" means conduct that violates a  
107 statute, ordinance, or regulation as it relates to the use of a  
108 qualified product.

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109 (2)(a) A qualified civil liability action may not be  
110 brought in any court of this state.

111 (b) A qualified civil liability action that is pending on  
112 the effective date of this act, shall be immediately dismissed  
113 by the court in which the action was brought or is currently  
114 pending.

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**T I T L E A M E N D M E N T**

118 Remove lines 2-7 and insert:

119 An act relating to firearm purchase or transfer; amending  
120 s. 790.065, F.S.; reducing the minimum age at which a  
121 person may purchase a firearm and the age of purchasers to  
122 which specified licensees are prohibited from selling or  
123 transferring a firearm; repealing an exception; creating s.  
124 790.402, F.S.; providing definitions; prohibiting specified  
125 actions against manufacturers, distributors, dealers, and  
126 importers of firearms or ammunition products, and their  
127 trade associations; providing an effective date.

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