

An Act

SENATE BILL 23-168

BY SENATOR(S) Jaquez Lewis and Kolker, Cutter, Danielson, Fields, Marchman, Sullivan, Bridges, Coleman, Gonzales, Hansen, Hinrichsen, Moreno, Rodriguez, Winter F., Fenberg;
also REPRESENTATIVE(S) Mabrey and Parenti, Bacon, Dickson, Epps, Garcia, Jodeh, Kipp, Titone, Vigil, Amabile, Bird, Boesenecker, Brown, Daugherty, deGruy Kennedy, English, Froelich, Gonzales-Gutierrez, Hamrick, Herod, Joseph, Lindsay, Lindstedt, McCormick, Michaelson Jenet, Ortiz, Ricks, Sirota, Weissman, Willford, Snyder, Story, Woodrow.

CONCERNING GUN VIOLENCE VICTIMS' ACCESS TO THE JUDICIAL SYSTEM.

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

SECTION 1. In Colorado Revised Statutes, **repeal** part 5 of article 21 of title 13.

SECTION 2. In Colorado Revised Statutes, **add** article 27 to title 6 as follows:

ARTICLE 27 **Firearms and Ammunition Manufacturers**

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

6-27-101. Short title. THE SHORT TITLE OF THIS ARTICLE 27 IS THE "JESSI REDFIELD GHAWI'S ACT FOR GUN VIOLENCE VICTIMS' ACCESS TO JUSTICE AND FIREARMS INDUSTRY ACCOUNTABILITY".

6-27-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE STATE OF COLORADO HAS A COMPELLING INTEREST IN PROTECTING THE LIFE, HEALTH, SAFETY, AND WELL-BEING OF COLORADO RESIDENTS;

(b) UNLAWFUL AND IRRESPONSIBLE CONDUCT BY THE FIREARM INDUSTRY POSE SIGNIFICANT RISKS TO THE LIFE, HEALTH, SAFETY, AND WELL-BEING OF COLORADO RESIDENTS;

(c) OUR STATE AND OUR NATION HAVE A LONG-STANDING HISTORICAL TRADITION OF PRESCRIBING STANDARDS OF RESPONSIBLE CONDUCT AND ACCOUNTABILITY FOR INDUSTRIES WHOSE BUSINESS PRACTICES MAY CAUSE HARM TO THE PUBLIC;

(d) THE FEDERAL "PROTECTION OF LAWFUL COMMERCE IN ARMS ACT" PRESERVES STATES' CRITICAL AUTHORITY TO ENACT LAWS PRESCRIBING AND ENFORCING STANDARDS OF RESPONSIBLE CONDUCT AND ACCOUNTABILITY FOR FIREARM INDUSTRY MEMBERS;

(e) IT IS THE POLICY OF THIS STATE THAT FIREARM INDUSTRY MEMBERS HAVE A DUTY AND RESPONSIBILITY TO FOLLOW COLORADO LAW, INCLUDING NOT ENGAGING IN UNFAIR OR DECEPTIVE TRADE PRACTICES IN VIOLATION OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF THIS TITLE 6; AND

(f) IT IS FURTHER THE POLICY OF THIS STATE THAT VICTIMS HARMED BY FIREARM INDUSTRY MEMBERS' WRONGFUL AND UNLAWFUL CONDUCT, AND PUBLIC OFFICIALS ACTING ON BEHALF OF THE PEOPLE OF COLORADO, SHALL NOT BE BARRED FROM PURSUING CIVIL ACTIONS SEEKING APPROPRIATE JUSTICE AND FAIR REMEDIES FOR THOSE HARMS IN COURT, INCLUDING CIVIL ACTIONS FOR HARMS CAUSED BY NEGLIGENT ENTRUSTMENT OF FIREARM INDUSTRY PRODUCTS, CONSISTENT WITH ANY LIMITATIONS OR IMMUNITIES OTHERWISE PROVIDED IN STATE OR FEDERAL LAW.

(2) IT IS FURTHER THE POLICY OF THIS STATE THAT PRODUCT LIABILITY FOR INJURY, DAMAGE, OR DEATH CAUSED BY THE DISCHARGE OF A FIREARM OR AMMUNITION IS NOT BASED UPON THE INHERENT POTENTIAL OF A FIREARM TO CAUSE INJURY, DAMAGE, OR DEATH WHEN DISCHARGED. IT SHALL BE THE FURTHER POLICY OF THIS STATE THAT A CIVIL ACTION IN TORT FOR ANY REMEDY ARISING FROM PHYSICAL OR EMOTIONAL INJURY, PHYSICAL DAMAGE, OR DEATH CAUSED BY THE DISCHARGE OF A FIREARM IS NOT BASED UPON THE INHERENT POTENTIAL OF A FIREARM TO CAUSE INJURY, DAMAGE, OR DEATH WHEN DISCHARGED.

6-27-103. Definitions. AS USED IN THIS ARTICLE 27, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "FIREARM INDUSTRY MEMBER" MEANS A PERSON, FIRM, CORPORATION, OR ANY OTHER ENTITY ENGAGED IN THE MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, OR WHOLESALE OR RETAIL SALE OF A FIREARM INDUSTRY PRODUCT.

(2) "FIREARM INDUSTRY PRODUCT" MEANS:

(a) A FIREARM, AS DEFINED IN SECTION 18-1-901;

(b) AMMUNITION;

(c) A COMPLETED OR UNFINISHED FRAME OR RECEIVER;

(d) A FIREARM COMPONENT OR MAGAZINE;

(e) A DEVICE MARKETED OR SOLD TO THE PUBLIC THAT IS DESIGNED OR ADAPTED TO BE INSERTED INTO, AFFIXED ONTO, OR USED IN CONJUNCTION WITH A FIREARM, IF THE DEVICE IS:

(I) REASONABLY DESIGNED OR INTENDED TO BE USED TO INCREASE A FIREARM'S RATE OF FIRE, CONCEALABILITY, MAGAZINE CAPACITY, OR DESTRUCTIVE CAPACITY; OR

(II) REASONABLY DESIGNED OR INTENDED TO INCREASE THE FIREARM'S STABILITY AND HANDLING WHEN THE FIREARM IS REPEATEDLY FIRED; AND

(f) ANY MACHINE OR DEVICE THAT IS MARKETED OR SOLD TO THE PUBLIC, OR REASONABLY DESIGNED OR INTENDED TO BE USED TO MANUFACTURE OR PRODUCE A FIREARM OR ANY OTHER FIREARM INDUSTRY PRODUCT AS DESCRIBED IN THIS SUBSECTION (2).

(3) "UNFINISHED FRAME OR RECEIVER" MEANS ANY FORGING, CASTING PRINTING, EXTRUSION, MACHINED BODY, OR SIMILAR ARTICLE THAT HAS REACHED A STAGE IN MANUFACTURE WHEN IT MAY BE READILY COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM OR THAT IS MARKETED OR SOLD TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED.

6-27-104. Firearm industry standards of responsible conduct.

(1) THIS SECTION APPLIES TO A FIREARM INDUSTRY MEMBER ENGAGED IN THE MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, OR WHOLESALE OR RETAIL SALE OF A FIREARM INDUSTRY PRODUCT THAT MEETS ANY OF THE FOLLOWING CONDITIONS:

(a) THE FIREARM INDUSTRY PRODUCT WAS SOLD, MADE, DISTRIBUTED, OR MARKETED IN THIS STATE; OR

(b) THE FIREARM INDUSTRY PRODUCT WAS INTENDED TO BE SOLD, MADE, DISTRIBUTED, OR MARKETED IN THIS STATE.

(2) A FIREARM INDUSTRY MEMBER SHALL NOT KNOWINGLY ENGAGE IN CONDUCT, THROUGH ACTS OR OMISSIONS, THAT VIOLATES THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF THIS TITLE 6, INCLUDING ANY UNFAIR OR DECEPTIVE TRADE PRACTICE, AS DESCRIBED IN SECTION 6-1-105.

(3) A FIREARM INDUSTRY MEMBER SHALL NOT KNOWINGLY ENGAGE IN CONDUCT, THROUGH ACTS OR OMISSIONS, THAT VIOLATES ARTICLE 12 OF TITLE 18.

6-27-105. Cause of action for violations of standards of responsible conduct. (1) A PERSON OR ENTITY THAT HAS SUFFERED HARM AS A RESULT OF A FIREARM INDUSTRY MEMBER'S ACTS OR OMISSIONS IN KNOWING VIOLATION OF SECTION 6-27-104 MAY BRING A CIVIL ACTION PURSUANT TO THIS ARTICLE 27 IN A COURT OF COMPETENT JURISDICTION.

(2) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE, MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO ENFORCE THIS ARTICLE 27 AND REMEDY HARMS CAUSED BY ANY ACTS OR OMISSIONS IN KNOWING VIOLATION OF SECTION 6-27-104.

(3) IN AN ACTION BROUGHT PURSUANT TO THIS SECTION, IF THE COURT DETERMINES THAT A FIREARM INDUSTRY MEMBER ENGAGED IN CONDUCT IN VIOLATION OF SECTION 6-27-104, THE COURT SHALL AWARD JUST AND APPROPRIATE RELIEF, WHICH MAY INCLUDE BUT IS NOT LIMITED TO:

(a) INJUNCTIVE RELIEF SUFFICIENT TO PREVENT THE FIREARM INDUSTRY MEMBER AND ANY OTHER DEFENDANT FROM FURTHER VIOLATING THIS ARTICLE 27;

(b) COMPENSATORY AND PUNITIVE DAMAGES;

(c) REASONABLE ATTORNEY FEES, FILING FEES, AND REASONABLE COSTS OF ACTION; AND

(d) ANY OTHER JUST AND APPROPRIATE RELIEF NECESSARY TO ENFORCE THIS ARTICLE 27 AND REMEDY THE HARM CAUSED BY THE VIOLATION.

(4) IN AN ACTION BROUGHT PURSUANT TO THIS ARTICLE 27, AND NOTWITHSTANDING ANY INTERVENING ACT BY A THIRD PARTY, IF A FIREARM INDUSTRY MEMBER'S KNOWING VIOLATION OF THIS ARTICLE 27 CREATES A REASONABLY FORESEEABLE RISK THAT HARM WOULD OCCUR, THE FIREARM INDUSTRY MEMBER'S VIOLATION IS PRESUMED TO BE THE PROXIMATE CAUSE OF THE HARM SUFFERED BY THE PLAINTIFF.

(5) AN ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN FIVE YEARS AFTER THE DATE THAT THE VIOLATION OCCURRED OR THE HARM WAS INCURRED.

(6) A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MAY BE BROUGHT IN:

(a) THE COUNTY IN WHICH ALL OR A SUBSTANTIAL PART OF THE EVENTS OR OMISSIONS GIVING RISE TO THE CLAIM OCCURRED;

(b) THE COUNTY OF RESIDENCE OF ANY ONE OF THE NATURAL PERSON DEFENDANTS AT THE TIME THE CAUSE OF ACTION ACCRUED;

(c) THE COUNTY OF THE PRINCIPAL OFFICE IN THIS STATE OF ANY OF THE DEFENDANTS THAT IS NOT A NATURAL PERSON; OR

(d) THE COUNTY OF RESIDENCE FOR THE PLAINTIFF IF THE PLAINTIFF IS A NATURAL PERSON RESIDING IN COLORADO.

6-27-106. Limitations. (1) NOTHING IN THIS ARTICLE 27 LIMITS OR IMPAIRS IN ANY WAY THE RIGHT OF THE ATTORNEY GENERAL, OR ANY PERSON OR ENTITY, TO PURSUE A LEGAL ACTION PURSUANT TO ANY OTHER LAW, CAUSE OF ACTION, TORT THEORY, OR OTHER AUTHORITY.

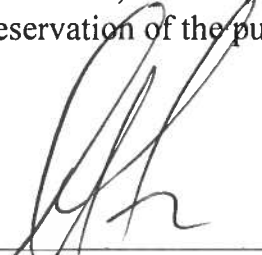
(2) NOTHING IN THIS ARTICLE 27 LIMITS OR IMPAIRS IN ANY WAY AN OBLIGATION OR REQUIREMENT PLACED ON A FIREARM INDUSTRY MEMBER BY ANY OTHER AUTHORITY.

(3) THIS ARTICLE 27 MUST BE CONSTRUED AND APPLIED IN A MANNER THAT IS CONSISTENT WITH THE REQUIREMENTS OF THE CONSTITUTIONS OF COLORADO AND THE UNITED STATES.


SECTION 3. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable.

SECTION 4. Effective date. This act takes effect October 1, 2023.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.




Steve Fenberg
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

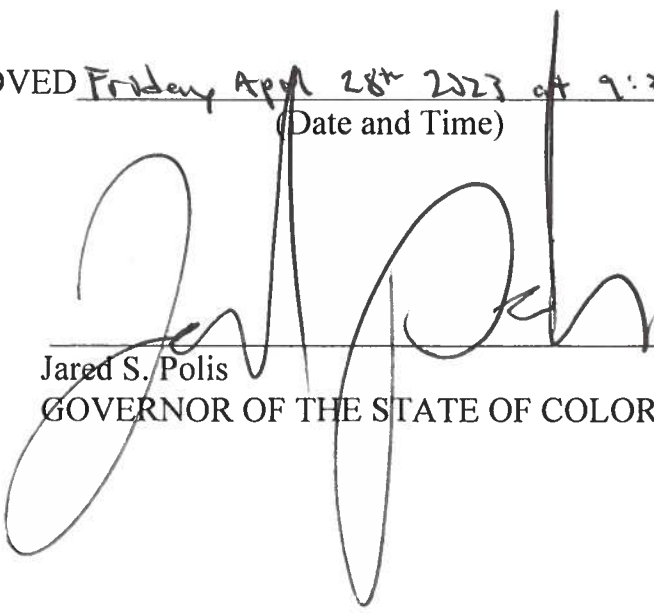


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED Friday, April 28th 2023 at 9:30 am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO