

## HB0298S04 compared with HB0298S02

~~{deleted text}~~ shows text that was in HB0298S02 but was deleted in HB0298S04.

inserted text shows text that was not in HB0298S02 but was inserted into HB0298S04.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Jeremy A}~~Senator Curtis S. {Peterson}Bramble proposes the following substitute bill:

### LAWFUL COMMERCE IN ARMS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Justin L. Fawson**

Senate Sponsor: ~~{~~Curtis S. Bramble

Cosponsor: Derrin Owens

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#### LONG TITLE

##### General Description:

This bill limits the liability of manufacturers and sellers of firearms and ammunition.

##### Highlighted Provisions:

This bill:

- ▶ enacts the Lawful Commerce in Arms Act;
- ▶ creates definitions; and
- ▶ limits the liability of manufacturers and sellers of firearms and ammunition to specific situations.

##### Money Appropriated in this Bill:

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None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

**53-5d-101**, Utah Code Annotated 1953

**53-5d-102**, Utah Code Annotated 1953

**53-5d-103**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-5d-101** is enacted to read:

#### **CHAPTER 5d. LAWFUL COMMERCE IN ARMS ACT**

##### **53-5d-101. Title.**

This chapter is known as the "Lawful Commerce in Arms Act."

Section 2. Section **53-5d-102** is enacted to read:

##### **53-5d-102. Definitions.**

As used in this chapter:

(1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

(2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

(3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(4) "Person" means the same as that term is defined in Section 68-3-12.5.

(5) (a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief,

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abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

(b) "Qualified civil liability action" does not include:

(i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section 76-10-503 by a party directly harmed by the conduct of which the transferee was convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including:

(A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under federal or state law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or Section 76-10-503;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then the act shall be considered the sole proximate cause of any resulting death, personal injuries, or property damage; or

(vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C. Chapter 53, or Title 76, Chapter 10, Part 5, Weapons.

(6) "Qualified product" means a firearm or antique firearm, as defined in Section 76-10-501, ammunition, or a component part of a firearm or ammunition.

(7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as

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defined in Section 76-10-501.

(8) "Trade association" means:

(a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and

(c) an organization, two or more members of which are manufacturers or sellers of a qualified product.

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

Section 3. Section **53-5d-103** is enacted to read:

### **53-5d-103. Limitations on liability.**

(1) A manufacturer or seller of a qualified product, or trade association, is not subject to civil liability regarding the unlawful misuse of a qualified product unless an injury or death results from an act or omission of the manufacturer, seller, or trade association that constitutes gross negligence, recklessness, or intentional misconduct.

(2) A qualified civil liability action against a manufacturer, seller, or trade association that does not allege any of the provisions of Subsection 53-5d-103(5)(b) shall be dismissed.