



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0048**

Introduced 1/26/2005, by Sen. Ira I. Silverstein

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Firearm Liability Act. Provides that a firearm transferor is strictly liable in a civil action for death, injury, or property damage resulting from the use of a firearm that was unlawfully sold, transferred, or caused to be sold or transferred. Provides that the plaintiff may recover punitive damages in addition to all other lawful damages, court costs, and attorney's fees. Provides that a defendant found strictly liable under this Act must pay \$10,000 in a civil penalty to the Department of State Police if the defendant sold, transferred, or caused to be sold or transferred a firearm in violation of certain provisions of the Firearm Owners Identification Card Act or the Criminal Code of 1961. Provides that an action under this Act must be commenced within 5 years after the cause of action accrued.

LRB094 04083 RLC 34103 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT in relation to firearm liability.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Firearm Liability Act.

6 Section 5. Definitions. In this Act:

7 "Firearm" has the meaning ascribed to it in Section 1.1 of  
8 the Firearm Owners Identification Card Act.

9 "Firearm transferor" means a person who sells, transfers,  
10 or causes the sale or transfer of a firearm to another person.

11 Section 10. Firearm transferor liability. If it was  
12 unlawful at the time of the sale or transfer of a firearm (i)  
13 for the firearm transferor to make or cause to be made the sale  
14 or transfer of the firearm to another person or (ii) for that  
15 other person to purchase, receive, or possess the firearm, then  
16 the firearm transferor is strictly liable in a civil action for  
17 any death, injury, or damage to property proximately caused by  
18 the use of that firearm. Liability under this Act is in  
19 addition to any other statutory or common law liability.

20 Section 15. Persons who may bring action and recover  
21 damages.

22 (a) A civil action under this Act may be brought and  
23 damages may be recovered by the person injured or by the person  
24 whose property was damaged by the use of the firearm. If the  
25 person entitled to bring an action and recover damages is a  
26 minor, the action may be brought and damages recovered on  
27 behalf of the minor by the minor's parent or legal guardian or  
28 by the guardian of the estate of the minor. If the person  
29 entitled to bring an action and recover damages is a disabled  
30 person, the action may be brought and damages recovered by the

1 guardian of the estate of the disabled person. If the person  
2 entitled to bring an action and recover damages is deceased,  
3 but was not killed by the use of the firearm, the action may be  
4 brought and damages recovered by the personal representative of  
5 the decedent's estate on behalf of the estate.

6 (b) If a person was killed by the use of the firearm, an  
7 action may be brought and damages recovered by the personal  
8 representative of the decedent's estate, and, except as  
9 otherwise provided in this Section, the amount recovered in the  
10 action shall be for the exclusive benefit of the surviving  
11 spouse and next of kin of the deceased person. The amount  
12 recovered in the action shall be distributed by the court in  
13 which the cause is heard, or by the circuit court in the case  
14 of an agreed settlement, to each of the surviving spouse and  
15 next of kin of the deceased person in the proportion, as  
16 determined by the court, that the percentage of dependency of  
17 each of those persons upon the deceased person bears to the sum  
18 of the percentages of dependency of all of those persons upon  
19 the deceased person.

20 If the deceased person left no surviving spouse or next of  
21 kin entitled to recovery, the damages shall inure to the  
22 exclusive benefit of the decedent's estate.

23 Section 20. Recovery of damages. If the trier of fact  
24 finds by a preponderance of the evidence that the defendant is  
25 strictly liable under this Act, the plaintiff may recover  
26 punitive damages in addition to all other lawful damages, court  
27 costs, and attorney's fees.

28 Section 25. Civil penalty. If the trier of fact finds that  
29 the defendant is strictly liable under this Act and finds that  
30 the defendant sold, transferred, or caused the sale or transfer  
31 of a firearm in violation of Section 3 of the Firearm Owners  
32 Identification Card Act or Section 24-3, 24-3.3, 24-3.4, or  
33 24-3A of the Criminal Code of 1961, the court, in addition to  
34 any other damages, shall assess a civil penalty of \$10,000 to

1 be paid to the Department of State Police and deposited into  
2 the State Police Services Fund.

3 Section 30. Statute of limitations. An action under this  
4 Act must be commenced within 5 years after the cause of action  
5 accrued.