



H.R. 3214 / S. 1779: Repeal the Gun Industry Immunity Law

Since October 2005, an extraordinary law has provided gun manufacturers and sellers with a unique, broad immunity from legal accountability. Thanks to the Protection of Lawful Commerce in Arms Act (PLCAA), the gun industry is shielded from the lawsuits that are most often used in the United States to hold businesses accountable for products or practices that harm people. PLCAA blocks legal responsibility for gun manufacturers that have failed to innovate and make guns safer, and for irresponsible, reckless and negligent sales practices that contribute to the flood of illegal firearms in our communities.

- ❑ **The NRA and its allies fought to pass PLCAA to give the gun industry special protection from accountability under the law.**
 - In 2005, at the strong urging of the gun lobby, Congress passed PLCAA, one of the biggest giveaways to private industry in American history, giving gun manufacturers and sellers more protection from litigation than makers of cars or tobacco products.¹
 - At that time, the gun industry was facing increasing pressure from gun violence survivors and cities holding the industry accountable for its actions through lawsuits.²
 - The NRA celebrated the passage of PLCAA on the day it was signed, calling it the “most significant piece of pro-gun legislation in twenty years.”³
- ❑ **While the firearms industry continues to be large and lucrative, PLCAA has closed the courthouse door to many of the people hurt by gun violence since it was enacted in October 2005.**
 - More than 87 million guns were manufactured in the United States between 2006 and 2017,⁴ with FBI data indicating an estimated 145 million firearms were sold during that time.⁵
 - Since 2006, the two publicly traded gun companies that account for around 15 percent of the civilian retail firearms market have reported total profits of over \$1 billion.⁶
 - In the fifteen years since PLCAA was enacted, 444,000 Americans have been killed with guns and hundreds of thousands more injured,⁷ and yet many survivors are barred from holding the industry accountable for steps it should have taken to keep our communities safe from gun violence.
- ❑ **PLCAA has cleared the way for the gun industry to endanger Americans, largely eliminating the responsibilities most major industries face when making and selling products.**
 - A person harmed by a consumer product can generally bring a claim in court to prove that the company that manufactured or sold the product was at fault in causing the injuries—because a product was poorly designed or the business practices were irresponsible. If the judge or jury finds the company is legally responsible for the injuries, then it has to pay for, among other things, the person’s medical costs and loss of earnings.
 - In addition to compensating an injured person, this system of civil liability encourages industries to act responsibly and to innovate—to improve their products or business practices going forward, protecting the public and avoiding future lawsuits.



- This system has also worked to hold many industries—such as opioid manufacturers—accountable for their products and practices and has been instrumental in propelling manufacturers including automakers to improve product safety.
 - In August 2019, a court ruled that one pharmaceutical company had to pay over \$500 million to the state of Oklahoma to compensate for the company's conduct and role in fueling the opioid epidemic and continuing to market its products long after it had become clear that its irresponsible conduct was contributing to this deadly problem.⁸
 - Americans injured in car accidents sued automakers in the 1980s for failing to include airbags in their cars. Shortly thereafter, Ford announced that it would begin offering air bags in several of its models. Today, airbags are standard in motor vehicles—an exceptionally good and life-saving outcome motivated partly by civil litigation.⁹
- **The gun industry has the information and tools to innovate, but PLCAA has eliminated legal incentives for that industry to make firearms safer or to engage in responsible sales practices.**
 - Since the enactment of PLCAA's broad immunity, gun manufacturers have adopted no major reforms to make the industry safer. While PLCAA has narrow exceptions, it bars the civil lawsuits that are most often used to hold industries accountable.
 - PLCAA blocks most litigation that could incentivize gun manufacturers to design its products more safely, including the addition of simple safety features that have been available for years that could prevent unauthorized access by children and teens.
 - Hundreds of children and teenagers unintentionally shoot themselves or others every year with guns,¹⁰ often when gun owners leave guns within easy reach of children.
 - The gun industry knows it could take steps to design safer firearms—for example, childproofing technologies that would make unintentional shootings less likely—but the industry has refused to update and improve its products.
 - One example is a “magazine disconnect” device that prevents a firearm from discharging when the gun owner has accidentally left a round of ammunition in the chamber. One manufacturer has admitted that adding this feature would add only \$10 to the cost of a \$500 handgun, but manufacturers have refused to make it the industry standard.¹¹
 - PLCAA also blocks legal claims that could compel gunmakers to stop selling to those dealers who fuel the criminal market, have poor safety practices or training, or are not willing to use basic security measures or record every sale on video.
 - Gun manufacturers received nearly two million pieces of data about firearms recovered at crime scenes or in criminal investigations between 2010 and 2019.¹² Firearms tracing of guns recovered in crime is a systematic process of law enforcement tracking the movement of a firearm from its manufacture through the distribution chain (wholesalers and retailers). Firearms tracing can detect patterns in the sources and types of crime guns, and give manufactures insight into the distributors or dealers most often associated with supplying crime guns.¹³ Yet with all of this information available, gunmakers have little incentive to stop irresponsibly supplying those dealers who cater to the criminal market—because PLCAA removes so much pressure and accountability.



- Another source of crime guns are those stolen from gun dealers. Between 2012 and 2019, nearly 140,000 firearms were reported to be lost by or stolen from dealers across the country.¹⁴ The federal Bureau of Alcohol, Tobacco, Firearms and Explosives makes a number of recommendations regarding store security, but the choice is up to the industry on whether to implement any of them, including keeping accurate and up to date inventory or utilizing locks and bars to protect against burglary.¹⁵ PLCAA shields the gun dealers who've taken no steps to secure their premises when their guns are stolen and then used in crime. Even when manufacturers could insist that dealers take simple, easy steps to reduce foreseeable gun loss or theft, they are protected by PLCAA from accountability for supplying gun dealers that have weak or no security.
- **Support H.R. 3214, introduced by Representative Adam Schiff (D-CA-28), and S. 1779, introduced by Senator Richard Blumenthal (D-CT), to repeal PLCAA because the gun industry should adhere to the same rules as every other industry and be held accountable when its actions result in harm.**

¹ See J. S. Vernick, L. Rutkow, and D. A. Salmon, "Availability of Litigation as a Public Health Tool for Firearm Injury Prevention: Comparison of Guns, Vaccines, and Motor Vehicles," *American Journal of Public Health* 97, no. 11 (2007): 1991–97.

² See Fox Butterfield, "Sniper Victims in Settlement with Gun Maker and Dealer," *New York Times*, September 10, 2004, <https://nyti.ms/2Ve7jbb>; Alan Feuer, "U.S. Appeals Court Rejects City's Suit to Curb Guns," *New York Times*, May 1, 2008, <https://nyti.ms/34R0Tlu>.

³ NRA-ILA Press Release, "President Bush Signs 'Protection of Lawful Commerce in Arms Act'—Landmark NRA Victory Now Law," press release, October 26, 2005, <https://bit.ly/3co9Aq0>.

⁴ Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Commerce in the United States Annual Statistical Update 2019, <https://bit.ly/2VBkOR8>.

⁵ Federal Bureau of Investigation, "NICS Firearm Checks: Month/Year," <https://bit.ly/3aiHZoZ>. Everytown estimated the number of firearms sold between 2006 and 2017 using the same methodology as the Small Arms Survey. Based on surveys of retailers, the Small Arms Survey estimates that 1.1 firearms are sold for each handgun and long gun check, and 2 firearms are sold for each "multiple" check conducted.

⁶ American Outdoor Brands Corporation, Form 10-K for 2006 to 2019 10; Sturm Ruger & Co., Form 10-K for 2006 to 2019. Retrieved from www.SEC.gov.

⁷ Centers for Disease Control and Prevention. National Center for Injury Prevention and Control, Web-Based Injury Statistics Query and Reporting System (WISQARS) Fatal Injury Reports, data starts in 2006. Between 2006 and 2018, 444,299 people have died from gun violence in the US.

⁸ Jan Hoffman, "Johnson & Johnson Ordered to Pay \$572 Million in Landmark Opioid Trial," *New York Times*, August 30, 2019, <https://nyti.ms/2KezTTC>.

⁹ See S. P. Teret, "Litigating for the Public's Health," *American Journal of Public Health* 76, no. 8 (1986): 1027-28, <https://ajph.aphapublications.org/doi/pdfplus/10.2105/AJPH.76.8.1027>.

¹⁰ Everytown for Gun Safety Support Fund, #NotAnAccident Index, accessed April 17, 2020, <https://every.tw/3cl3PcB>.

¹¹ See *Adames v. Sheahan*, 909 N.E.2d 742, 749 (Ill. 2009).

¹² Bureau of Alcohol, Tobacco, Firearms and Explosives, Data & Statistics, accessed April 17, 2020, <https://bit.ly/3a9Tj6r>.

¹³ See Bureau of Alcohol, Tobacco, Firearms and Explosives, Fact Sheet—National Tracing Center, accessed April 17, 2020, <https://bit.ly/2xu3NRb>.

¹⁴ Bureau of Alcohol, Tobacco, Firearms and Explosives, Data & Statistics, accessed April 17, 2020, <https://bit.ly/3a9Tj6r>.

¹⁵ Bureau of Alcohol, Tobacco, Firearms and Explosives, Safety and Security Information for Federal Firearms Licensees, ATF Publication 3317.2, revised February 2010, <https://bit.ly/2KajHmM>.