

108TH CONGRESS
1ST SESSION

H. R. 1036

AN ACT

To prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

108TH CONGRESS
1ST SESSION

H. R. 1036

AN ACT

To prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protection of Lawful
3 Commerce in Arms Act”.

4 **SEC. 2. FINDINGS; PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) Citizens have a right, protected by the Sec-
7 ond Amendment to the United States Constitution,
8 to keep and bear arms.

9 (2) Lawsuits have been commenced against
10 manufacturers, distributors, dealers, and importers
11 of firearms that operate as designed and intended,
12 which seek money damages and other relief for the
13 harm caused by the misuse of firearms by third par-
14 ties, including criminals.

15 (3) The manufacture, importation, possession,
16 sale, and use of firearms and ammunition in the
17 United States are heavily regulated by Federal,
18 State, and local laws. Such Federal laws include the
19 Gun Control Act of 1968, the National Firearms
20 Act, and the Arms Export Control Act.

21 (4) Businesses in the United States that are en-
22 gaged in interstate and foreign commerce through
23 the lawful design, manufacture, marketing, distribu-
24 tion, importation, or sale to the public of firearms or
25 ammunition that has been shipped or transported in
26 interstate or foreign commerce are not, and should

1 not, be liable for the harm caused by those who
2 criminally or unlawfully misuse firearm products or
3 ammunition products that function as designed and
4 intended.

5 (5) The possibility of imposing liability on an
6 entire industry for harm that is solely caused by oth-
7 ers is an abuse of the legal system, erodes public
8 confidence in our Nation's laws, threatens the dimi-
9 nution of a basic constitutional right and civil lib-
10 erty, invites the disassembly and destabilization of
11 other industries and economic sectors lawfully com-
12 peting in the free enterprise system of the United
13 States, and constitutes an unreasonable burden on
14 interstate and foreign commerce of the United
15 States.

16 (6) The liability actions commenced or con-
17 templated by the Federal Government, States, mu-
18 nicipalities, and private interest groups are based on
19 theories without foundation in hundreds of years of
20 the common law and jurisprudence of the United
21 States and do not represent a bona fide expansion
22 of the common law. The possible sustaining of these
23 actions by a maverick judicial officer or petit jury
24 would expand civil liability in a manner never con-
25 templated by the Framers of the Constitution, by

1 the Congress, or by the legislatures of the several
2 states. Such an expansion of liability would con-
3 stitute a deprivation of the rights, privileges, and
4 immunities guaranteed to a citizen of the United
5 States under the Fourteenth Amendment to the
6 United States Constitution.

7 (b) PURPOSES.—The purposes of this Act are as fol-
8 lows:

9 (1) To prohibit causes of action against manu-
10 facturers, distributors, dealers, and importers of
11 firearms or ammunition products for the harm
12 caused by the criminal or unlawful misuse of firearm
13 products or ammunition products by others when
14 the product functioned as designed and intended.

15 (2) To preserve a citizen's access to a supply of
16 firearms and ammunition for all lawful purposes, in-
17 cluding hunting, self-defense, collecting, and com-
18 petitive or recreational shooting.

19 (3) To guarantee a citizen's rights, privileges,
20 and immunities, as applied to the States, under the
21 Fourteenth Amendment to the United States Con-
22 stitution, pursuant to section 5 of that Amendment.

23 (4) To prevent the use of such lawsuits to im-
24 pose unreasonable burdens on interstate and foreign
25 commerce.

1 (5) To protect the right, under the First
2 Amendment to the Constitution, of manufacturers,
3 distributors, dealers, and importers of firearms or
4 ammunition products, and trade associations, to
5 speak freely, to assemble peaceably, and to petition
6 the Government for a redress of their grievances.

7 **SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL**
8 **LIABILITY ACTIONS IN FEDERAL OR STATE**
9 **COURT.**

10 (a) IN GENERAL.—A qualified civil liability action
11 may not be brought in any Federal or State court.

12 (b) DISMISSAL OF PENDING ACTIONS.—A qualified
13 civil liability action that is pending on the date of the en-
14 actment of this Act shall be dismissed immediately by the
15 court in which the action was brought or is currently pend-
16 ing.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) ENGAGED IN THE BUSINESS.—The term
20 “engaged in the business” has the meaning given
21 that term in section 921(a)(21) of title 18, United
22 States Code, and, as applied to a seller of ammuni-
23 tion, means a person who devotes, time, attention,
24 and labor to the sale of ammunition as a regular
25 course of trade or business with the principal objec-

1 tive of livelihood and profit through the sale or dis-
2 tribution of ammunition.

3 (2) MANUFACTURER.—The term “manufac-
4 turer” means, with respect to a qualified product, a
5 person who is engaged in the business of manufac-
6 turing the product in interstate or foreign commerce
7 and who is licensed to engage in business as such a
8 manufacturer under chapter 44 of title 18, United
9 States Code.

10 (3) PERSON.—The term “person” means any
11 individual, corporation, company, association, firm,
12 partnership, society, joint stock company, or any
13 other entity, including any governmental entity.

14 (4) QUALIFIED PRODUCT.—The term “qualified
15 product” means a firearm (as defined in subpara-
16 graph (A) or (B) of section 921(a)(3) of title 18,
17 United States Code, including any antique firearm
18 (as defined in section 921(a)(16) of such title)), or
19 ammunition (as defined in section 921(a)(17) of
20 such title), or a component part of a firearm or am-
21 munition, that has been shipped or transported in
22 interstate or foreign commerce.

23 (5) QUALIFIED CIVIL LIABILITY ACTION.—

24 (A) IN GENERAL.—The term “qualified
25 civil liability action” means a civil action

1 brought by any person against a manufacturer
2 or seller of a qualified product, or a trade asso-
3 ciation, for damages or injunctive relief result-
4 ing from the criminal or unlawful misuse of a
5 qualified product by the person or a third
6 party, but shall not include—

7 (i) an action brought against a trans-
8 feror convicted under section 924(h) of
9 title 18, United States Code, or a com-
10 parable or identical State felony law, by a
11 party directly harmed by the conduct of
12 which the transferee is so convicted;

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

16 (iii) an action in which a manufac-
17 turer or seller of a qualified product know-
18 ingly and willfully violated a State or Fed-
19 eral statute applicable to the sale or mar-
20 keting of the product, and the violation
21 was a proximate cause of the harm for
22 which relief is sought;

23 (iv) an action for breach of contract
24 or warranty in connection with the pur-
25 chase of the product; or

1 (v) an action for physical injuries or
2 property damage resulting directly from a
3 defect in design or manufacture of the
4 product, when used as intended.

5 (B) NEGLIGENT ENTRUSTMENT.—In sub-
6 paragraph (A)(ii), the term “negligent entrust-
7 ment” means the supplying of a qualified prod-
8 uct by a seller for use by another person when
9 the seller knows or should know the person to
10 whom the product is supplied is likely to use
11 the product, and in fact does use the product,
12 in a manner involving unreasonable risk of
13 physical injury to the person and others.

14 (6) SELLER.—The term “seller” means, with
15 respect to a qualified product—

16 (A) an importer (as defined in section
17 921(a)(9) of title 18, United States Code) who
18 is engaged in the business as such an importer
19 in interstate or foreign commerce and who is li-
20 censed to engage in business as such an im-
21 porter under chapter 44 of title 18, United
22 States Code;

23 (B) a dealer (as defined in section
24 921(a)(11) of title 18, United States Code) who
25 is engaged in the business as such a dealer in

1 interstate or foreign commerce and who is li-
2 censed to engage in business as such a dealer
3 under chapter 44 of title 18, United States
4 Code; or

5 (C) a person engaged in the business of
6 selling ammunition (as defined in section
7 921(a)(17) of title 18, United States Code) in
8 interstate or foreign commerce at the wholesale
9 or retail level, consistent with Federal, State,
10 and local law.

11 (7) STATE.—The term “State” includes each of
12 the several States of the United States, the District
13 of Columbia, the Commonwealth of Puerto Rico, the
14 Virgin Islands, Guam, American Samoa, and the
15 Commonwealth of the Northern Mariana Islands,
16 and any other territory or possession of the United
17 States, and any political subdivision of any such
18 place.

19 (8) TRADE ASSOCIATION.—The term “trade as-
20 sociation” means any association or business organi-
21 zation (whether or not incorporated under Federal
22 or State law) that is not operated for profit, and 2

1 or more members of which are manufacturers or
2 sellers of a qualified product.

Passed the House of Representatives April 9, 2003.

Attest:

Clerk.