108TH CONGRESS  
1ST SESSION 

S. 659 

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.

IN THE SENATE OF THE UNITED STATES 

MARCH 19, 2003 

Mr. Craig (for himself, Mr. Baucus, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Bennett, Mr. Bond, Mr. Breaux, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Campbell, Mr. Chambliss, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Cornyn, Mr. Crapo, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Ensign, Mr. Enzi, Mr. Frist, Mr. Graham of South Carolina, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Hatch, Mrs. Hutchinson, Mr. Inhofe, Mr. Johnson, Mr. Kyl, Ms. Landrieu, Mrs. Lincoln, Mr. Lott, Mr. McConnell, Mr. Miller, Ms. Murkowski, Mr. Nelson of Nebraska, Mr. Nickles, Mr. Reid, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Shelby, Mr. Smith, Mr. Specter, Mr. Stevens, Mr. Sununu, Mr. Talent, and Mr. Thomas) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL 

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.

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Be it enacted by the Senate and House of Representa-
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tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS; PURPOSES.

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

(1) Citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms.

(2) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

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

(4) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should
not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(5) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation’s laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(6) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by
Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen’s access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen’s rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.
(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

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

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

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought.

SEC. 4. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ENGAGED IN THE BUSINESS.—The term “engaged in the business” has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objec-
tive of livelihood and profit through the sale or dis-
tribution of ammunition.

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

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

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

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term “qualified 
civil liability action” means a civil action
brought by any person against a manufacturer
or seller of a qualified product, or a trade asso-
ciation, for damages resulting from the criminal
or unlawful misuse of a qualified product by the
person or a third party, but shall not include—

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

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

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

(iv) an action for breach of contract
or warranty in connection with the pur-
chase of the product; or
(v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended.

(B) NEGLIGENT ENTRUSTMENT.—In subparagraph (A)(ii), the term “negligent entrustment” means the supplying of a qualified product by a seller for use by another person when the seller knows, or 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 and others.

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

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in
interstate or foreign commerce and who is li-
censed to engage in business as such a dealer
under chapter 44 of title 18, United States
Code; or

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

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

(8) TRADE ASSOCIATION.—The term “trade as-
sociation” means any association or business organi-
ization (whether or not incorporated under Federal
or State law) that is not operated for profit, and 2
or more members of which are manufacturers or
sellers of a qualified product.