

113TH CONGRESS
1ST SESSION

H. R. 332

To provide victims of gun violence access to the same civil remedies as are available to those injured through other means.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 2013

Mr. SCHIFF (for himself, Mr. VAN HOLLEN, Mr. MEEKS, Mr. CICILLINE, Mr. CARTWRIGHT, Mr. HONDA, Mr. ELLISON, Mr. MORAN, Ms. SLAUGHTER, Mr. MCGOVERN, Ms. NORTON, and Mr. SERRANO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide victims of gun violence access to the same civil remedies as are available to those injured through other means.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Jus-
5 tice for Victims of Gun Violence Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) The Protection of Lawful Commerce in
9 Arms Act (in this subsection referred to as the

1 “PLCAA”) was enacted with the express purpose of
2 prohibiting “causes of action against manufacturers,
3 distributors, dealers, and importers of firearms or
4 ammunition products, and their trade associations,
5 for the harm solely caused by the criminal or unlaw-
6 ful misuse of firearm products or ammunition prod-
7 ucts by others when the product functioned as de-
8 signed and intended.”.

9 (2) The intent of the PLCAA was to bar a nar-
10 row category of lawsuits holding gun industry enti-
11 ties liable for damages solely on the basis of selling
12 a product that was used in crime.

13 (3) The chief sponsor of PLCAA stated during
14 floor debate, “This legislation will not bar the court-
15 house doors to victims who have been harmed by the
16 negligence or misdeeds of anyone in the gun indus-
17 try. . . . If manufacturers or dealers break the law
18 or commit negligence, they are still liable.”.

19 (4) It was not the intent of the Congress in the
20 PLCAA to protect gun or ammunition manufactur-
21 ers or sellers who failed to exercise reasonable care
22 for health and safety in the design, marketing, and
23 sale of their products.

24 (5) Federal and State courts have read the
25 PLCAA contrary to its intent, and dismissed civil

1 lawsuits based on negligence, product defect, and
2 other causes of action that are well established in
3 statute and common law principles.

4 (6) This special protection from civil liability
5 enjoyed by the firearm industry is not only contrary
6 to the congressional intent of the PLCAA, but also
7 contrary to public safety, and unique among indus-
8 tries in the United States.

9 (7) As Congress intended in the PLCAA, the
10 firearm industry should not be held liable solely be-
11 cause a product they made or sold was used in
12 crime, if those companies did not engage in neg-
13 ligent or otherwise tortious conduct. However, as
14 Congress also intended in the PLCAA, State or Fed-
15 eral courts should not be barred from applying State
16 common or statutory law to impose liability on in-
17 dustry participants who, through their negligent con-
18 duct or defective product, cause an injury in which
19 unlawful activity was also a cause.

20 (8) As most firearms dealers are responsible
21 businesspeople who do not engage in negligent sales
22 practices, 86 percent of firearms dealers sell no guns
23 that are subsequently used in crimes, and 1.2 per-
24 cent of firearms dealers sell 57 percent of crime
25 guns, the overwhelming majority of dealers need no

1 special protection from liability for damages result-
2 ing from the criminal use of guns.

3 (9) Allowing victims of gun violence to pursue
4 civil actions in State and Federal courts against the
5 firearm industry on the basis of negligent behavior
6 serves the interests of justice and fosters the adop-
7 tion of responsible business practices likely to reduce
8 the incidence of firearm deaths.

9 (10) The Second Amendment rights of law-
10 abiding citizens are not infringed by allowing State
11 and Federal courts to impose generally applicable
12 principles of civil justice law to negligent industry
13 participants.

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

16 (1) To ensure that those injured by firearms
17 have access to the same civil remedies as those in-
18 jured by any other product and are not restricted
19 from bringing suits based on statutes and common
20 law theories of liability in State and Federal court.

21 (2) To allow plaintiffs to discover and introduce
22 evidence, including gun trace evidence, into State
23 and Federal courts where appropriate.

1 **SEC. 3. EQUAL ACCESS TO CIVIL REMEDIES FOR VICTIMS**
2 **OF GUN VIOLENCE.**

3 (a) IN GENERAL.—An action against a manufac-
4 turer, seller, or trade association for damages or relief re-
5 sulting from an alleged defect or alleged negligence with
6 respect to a product, or conduct that would be actionable
7 under State common or statutory law in the absence of
8 the Protection of Lawful Commerce in Arms Act, shall not
9 be dismissed by a court on the basis that the action is
10 for damages resulting from, or for relief from, the crimi-
11 nal, unlawful, or volitional use of a qualified product.

12 (b) DEFINITIONS.—In subsection (a), the terms
13 “manufacturer”, “seller”, “trade association”, and “quali-
14 fied product” shall have the meanings given the terms in
15 section 4 of the Protection of Lawful Commerce in Arms
16 Act.

17 (c) APPLICABILITY.—Subsection (a) shall apply to
18 actions brought before, on, or after the date of the enact-
19 ment of this Act.

20 **SEC. 4. DISCOVERABILITY AND ADMISSIBILITY OF GUN**
21 **TRACE INFORMATION IN CIVIL PRO-**
22 **CEEDINGS.**

23 The contents of the Firearms Trace System database
24 maintained by the National Trace Center of the Bureau
25 of Alcohol, Tobacco, Firearms and Explosives shall not be
26 immune from legal process, shall be subject to subpoena

1 or other discovery, shall be admissible as evidence, and
2 may be used, relied on, or disclosed in any manner, and
3 testimony or other evidence may be permitted based on
4 the data, on the same basis as other information, in a civil
5 action in any State (including the District of Columbia)
6 or Federal court or in an administrative proceeding.

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