



Testimony in **Support** of
Civil Actions - Public Nuisances -
Firearm Industry Members
(Gun Industry Accountability Act of 2023)

SB113/HB259
Executive Director Karen Herren
Marylanders to Prevent Gun Violence

February 1, 2023

Dear Chair Clippinger, Vice-Chair Moon, and distinguished members of the committee,

Marylanders to Prevent Gun Violence (MPGV) is a statewide, grassroots organization dedicated to reducing gun deaths and injuries throughout the state of Maryland. We urge the committee for a **FAVORABLE** report on House Bill 259 to create a State cause of action permissible under the Protection of Lawful Commerce in Arms Act (“PLCAA”)¹.

BACKGROUND

Civil liability is effectively used in the United States as an important check on irresponsible and harmful industry behaviors. When legislators have been unwilling or unable to enact laws regulating a dangerous industry, the possibility of civil litigation has helped to incentivize industries to take reasonable steps to prevent their products or business practices from causing foreseeable risks to human life and well-being. Traditionally, this means that victims harmed by wrongful conduct, or public officials on the people’s behalf, can seek fair justice and accountability in the courts by filing lawsuits seeking monetary compensation or other court-ordered relief when industries have negligently or recklessly caused harm or failed to take reasonable steps to prevent foreseeable harm. However, in 2005, President Bush signed the Protection of Lawful Commerce in Arms Act (“PLCAA”) which gave the gun industry enormous exemptions from liability and accountability within the justice system. PLCAA has granted the gun industry unprecedented immunity from this system of justice and accountability. In

¹ 15 U.S.C. § 7901-7903

addition to shielding the gun industry, these legal immunities also provide an unfair business advantage to irresponsible firearm industry members over more responsible competitors who take stronger precautions to protect human life and well-being.

PLCAA AND EXCEPTIONS

PLCAA provides general immunity from lawsuits to federally licensed manufacturers, federally licensed firearm dealers and importers, and entities engaged in the business of selling ammunition at the wholesale or retail level. PLCAA prohibits plaintiffs from bringing “qualified civil liability actions” against these industry defendants. “Qualified civil liability actions” are civil or administrative proceedings for damages or other relief brought by any person including a governmental entity, “resulting from the criminal or unlawful misuse” of firearms, ammunition, or firearm or ammunition component parts by the plaintiff or a third party. There are 6 exceptions to the general industry immunity under 15 U.S.C. § 7903(5)(A):

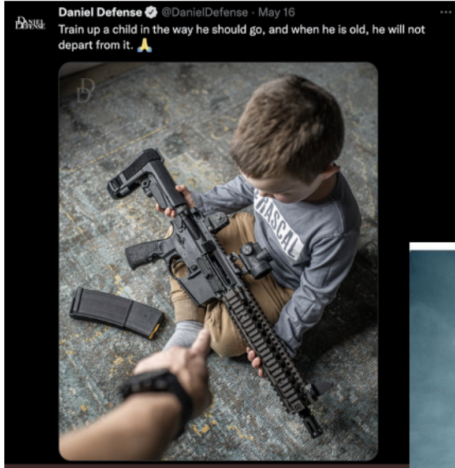
- An action brought against someone convicted of “knowingly transfer[ing] a firearm, knowing that such firearm will be used to commit a crime of violence” by someone directly harmed by such unlawful conduct;
- An action brought against a seller (or importer) for negligent entrustment or negligence per se;
- **An action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, if the violation was a proximate cause of the harm for which relief is sought.**
- An action for breach of contract or warranty in connection with the purchase of the product;
- An action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or
- An action commenced by the Attorney General to enforce the Gun Control Act or the National Firearms Act.

PLCAA provides firearm industry defendants with broad immunity from many common law tort actions, but also provides exceptions, including what has been called the “predicate exception,” which authorizes plaintiffs to bring civil actions against a firearm industry defendant who has knowingly violated a statute applicable to the sale or marketing of a firearm or other qualified product, if the violation was a proximate cause of the plaintiffs’ harm.

CONCLUSION

House Bill 259 seeks to codify into Maryland law a firearm industry standard of conduct under the predicate exception clarifying the obligations and prohibitions that are unquestionably and specifically applicable to the sale and marketing of firearms and to provide redress to victims when the industry fails to uphold that standard. MPGCV urges a FAVORABLE report on HB 259.

Gun Industry Marketing has given us a national nightmare.



JR-15™ GET EM ONE LIKE YOURS
 .22 Long Rifle

**SMALLER
 SAFER
 LIGHTER**
 PATENTED SAFETY
 MADE IN USA

Our goal was to develop a shooting platform that was not only sized correctly, and safe, but also looks, feels, and operates just like Mom and Dad's gun.

Safety was at the heart of our thought process that we developed and patented a tamper resistant safety that puts the adult in control of the firearm safety switch. The Weel and School Tool Team brought their collective experience in the firearms business, specifically the AR platform, to the table to launch the JR-15. We are so excited to start capturing the imagination of the next generation to enter the shooting sports.

SPECIFICATIONS

SIZE:	30.75"
WEIGHT:	APPROX 2.85
SAFETY:	PATENTED TAMPER RESISTANT
LOWER:	POWNER
UPPER:	POWNER
RAIL:	STANDARD PICATINNY RAIL WITH M-LOK FOR ALL STANDARD ACCESSORIES
TRIGGER:	MINI MIL-SPEC
BARREL:	16"
SIGHT:	NO SIGHT INCLUDED
MAGAZINE:	100, 150, 180, with WEEL'S M-LOK

