

**OPPOSITION FROM BERETTA U.S.A. CORP., BENELLI U.S.A. CORPORATION
AND
STOEGER INDUSTRIES, INC. TO HOUSE BILL 1396**

Beretta U.S.A. Corp., with its headquarters located in Accokeek, Maryland (Prince George's County), Benelli U.S.A. Corporation and its subsidiary Stoeger Industries, Inc., also with headquarters in Accokeek but including their warehouse and distribution center in Pocomoke City, Maryland, are in adamant opposition to passage of Maryland House Bill 1396. HB 1396 seeks to circumvent the federal Protection of Lawful Commerce in Arms Act (PLCAA), passed in 2005 by a majority of Democrats and Republicans in both houses of Congress.

These 3 companies employ around 120 people in their Maryland facilities and in aggregate pay a significant amount in state taxes per year. All 3 companies are also important importers and distributors of firearms to law enforcement and civilian customers throughout the United States. Beretta U.S.A. is also an important manufacturer of firearms sold not only in the U.S. but to the U.S. Armed Forces and to international customers as well.

The PLCAA was passed by Congress to correct abuse of the judicial system that began in 1998, when 31 cities and counties and one state started filing lawsuits that sought to blame firearm manufacturers, distributors and dealers for crimes that involved firearms committed within those jurisdictions. All of those cases but one (a suit filed by Gary, Indiana has seen little activity since 2004 but remains open) were dismissed, either for legal reasons or because, after extensive fact discovery, the jurisdiction filing the suit voluntarily withdrew it or, in other

instances, because courts found no evidence demonstrating liability by the firearm company defendants for any of the crimes committed in the plaintiff's jurisdiction.

Notwithstanding this record of litigious failure, gun control advocates called for more lawsuits against the firearm industry in an effort to blame firearm makers and distributors for crimes committed, not by them or as a consequence of their actions, but by criminals over whom none of the defendants had any control. This abuse invited the correction in the form of the PLCAA.

HB 1396 seeks to circumvent the PLCAA by creating a Maryland-based statute based on factual and legal error that is devoid of balanced due process and is unconstitutionally vague. Rather than respect legal precedents, HB 1396 seeks to sweep them aside by creating a type of star chamber run by the Attorney General or, even less controllably, by private individuals throughout the state. As the lawsuits that led to passage of the PLCAA proved, such suits achieved only the result of expenditure of millions of dollars in legal fees, including by Beretta U.S.A. No suit resulted in the ends allegedly sought by plaintiffs. The real risk, then, that HB 1396 creates is the risk of the bankruptcy of defendants, including the 3 Maryland employers submitting this opposition to HB 1396, while also imperiling the availability of firearms (designated as a critical infrastructure essential business by the U.S. Government and by numerous states, including Maryland, Connecticut, Hawaii, New Hampshire, Ohio and Rhode Island during the COVID-19 pandemic) to government and consumer customers throughout the United States.

HB 1396 invites a flood of baseless lawsuits by private individuals and would transform one official (the State's Attorney General) into a one-person judge and jury, even going so far as

to vest the Attorney General with power to prosecute—in a manner reminiscent of the science fiction story and movie “Minority Report”—alleged violations of the public nuisance laws in Maryland that have yet to happen.

HB 1396 also does this by empowering private citizens and government officials with the authority to file suits based on advertisements that are “misleading in a material respect” or based on conduct that is unreasonable under the totality of the circumstances. What those terms mean is left undefined but is certainly open to broad and speculative interpretation. The Bill also seeks to create liability if the firearm industry member fails to establish and use “reasonable controls and procedures” to prevent firearms or their component parts and accessories from being unlawfully possessed in the state, not taking into account the existing fact that no firearm can be sold by a licensed manufacturer, distributor or dealer without the customer being approved by the FBI to acquire the firearm through a background check performed prior to the transfer of possession.

HB 1396 creates liability in these circumstances even if the alleged public nuisance conduct (or alleged absence of conduct) by the defendant had nothing to do with how a criminal obtained a given firearm. Thus, for example, if a plaintiff decided that a firearm manufacturer engaged in false advertising because the manufacturer advertised their products as being useful for self-defense (part of the basis for designating the firearm industry as essential business during the pandemic, by the way) or decided that selling a firearm with a high capacity magazine—even if the magazine was sold in a state that allows such products—or if a plaintiff believes that the manufacture and sale of firearms, in and of itself, was a conduct that endangered public health, a lawsuit could be filed against a firearm maker or distributor

even if the criminal who obtained a product never saw any such advertisement or if the firearm and/or magazine was lawfully made and sold because the votes of citizens and their elected representatives in the state in which the firearm was first sold wanted it that way.

As a final note, Beretta U.S.A. is about to engage in a multi-million dollar, multi-year renovation of its Prince George's County facility. Senate passage of HB 1396 would send the wrong signal to Beretta U.S.A. and to its sister companies Benelli U.S.A. and Stoeger (which just completed construction of a major expansion of their storage and shipping center on the Eastern Shore) about the worthiness of continued investment in this state.