

Equal Access to Justice for Victims of Gun Violence Act

Sponsors: Representative Adam Schiff (D-CA) and Senator Richard Blumenthal (D-CT)

Background:

In 2005, Congress passed the Protection of Lawful Commerce in Arms Act (PLCAA), which provides immunity in both state and federal court from civil liability for licensed manufacturers, distributors, and dealers of firearms, as well as their trade associations, in most negligence and product liability actions. At the time PLCAA was passed, supporters of the legislation stated it was necessary to protect the gun industry from frivolous lawsuits and that victims of gun violence would not be shut out of the courts. Senator Larry Craig, the sponsor of the legislation, stated during debate on the Senate floor that “This bill will not prevent a single victim from obtaining relief for wrongs done to them by anyone in the gun industry.”

This assurance has proven to be false. Numerous cases across the United States have been dismissed on the basis of PLCAA even when the gun makers and sellers acted in a fashion that would qualify as negligent if it involved any other product, and many additional cases have likely not been brought because of the chilling effect of PLCAA’s blanket immunity. PLCAA immunizes the gun industry from their fundamental duty to act with reasonable care towards public safety, empowering the worst actors to act with impunity.

Legislation:

The Equal Access to Justice for Victims of Gun Violence Act will repeal the Protection of Lawful Commerce in Arms Act. It will allow civil cases to go forward against irresponsible actors in state and federal courts, just as they would if they involved any other product. Letting courts hear these cases would provide victims of gun violence their day in court. Additionally, the bill would incentivize responsible business practices that would reduce gun injuries and deaths.

Section-by-Section:

Sec. 1 – Short Title

- Equal Access to Justice for Victims of Gun Violence Act

Sec. 2 – Repeal of the Protection of Lawful Commerce in Arms Act

- Repeals PLCAA’s prohibition on bringing qualified civil liability actions against gun makers, distributors, sellers, or trade associations in state or federal court.
- The version of PLCAA that was signed into law included two additional sections added through amendment which are not repealed by this bill – Section 5 pertaining to gun storage and safety devices, and Section 6 pertaining to penalties for use of armor piercing ammunition.

Sec. 3 –Discovery and Admissibility of Relevant Gun Trace Data

- Legislative riders on the Commerce-Justice-Science Appropriations Bill prohibit the discovery and introduction into evidence of ATF gun trace data as part of civil proceedings in state and federal courts. Section 4 repeals this provision so that plaintiffs can subpoena and introduce gun trace data relevant to their case, for example to establish a pattern of negligent behavior on the part of a firearm maker or dealer.