



H.R. 2814: The Equal Access to Justice for Victims of Gun Violence Act of 2022

The *Equal Access to Justice for Victims of Gun Violence Act* would restore the rights of victims of gun violence to hold the gun industry accountable when gun manufacturers and merchants act carelessly and disregard reasonable safeguards that would protect the American public. It would also overturn strict prohibitions (the “Tiahrt Amendment”) on the discovery and introduction of Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) gun trace data into evidence in state and federal civil court and administrative proceedings.

The Protection of Lawful Commerce in Arms Act (PLCAA)

[PLCAA](#) is replete with loopholes that disincentivize manufacturers and sellers of firearms or ammunition from taking an active role in ensuring their products are safe to the public. Only through direct accountability will gun safety measures be elevated and responsible gun practices rewarded. Repeal of PLCAA ensures that the gun industry is held accountable for products they sell and their negligent business practices, like every other industry in the United States.

In 2005, PLCAA was signed into law with bipartisan support, providing immunity to [manufacturers, distributors,](#) and importers of firearms or ammunition from civil claims. The primary purpose of PLCAA is to prohibit causes of action against gun merchants and their trade associations, for harm solely caused by the criminal or unlawful misuse of firearms, ammunition, or components by others when the product functions as designed and intended. But PLCAA has been broadly interpreted by courts across the country to bar most claims related to inappropriate practices surrounding the sale and manufacture of firearms, foreclosing virtually all attempts to hold the gun industry accountable. No other industry has similar protections from accountability.

An example of cases barred by PLCAA: a [lawsuit filed](#) by parents of a victim of the 2012 mass shooting in Aurora Colorado was dismissed under PLCAA and the parents were ordered to [pay more than \\$200K](#) to the attorneys of the online ammunition dealer they sued for negligent entrustment of thousands of rounds of ammunition and 100-round ammunition magazines to the shooter, arguing that the dealer should have known given the volume of the sale that its products were likely to cause serious harm or death, requiring reasonable safeguards.

How does the gun industry’s legal responsibility compare to other industries?

In any other industry, businesses owe a duty of care to their clients and to the greater public. One of the bedrocks of American jurisprudence, tort law, was established to provide relief to injured parties for harms caused by others and to deter others from committing harmful acts and offset the costs incurred by the federal government for remedying these harms. In every state, a business or individual can be sued for negligence when their conduct lacks reasonable care that foreseeably results in harm to others. For example, manufacturers and distributors of prescription opioids have been held accountable for a lack of due care for their role in the opioid crisis. In a [global settlement](#), drug distributors have agreed to pay billions, money which must be used to support strategies to fight the opioid crisis. In another example, DuPont, the world’s largest chemical company, was ordered to pay injured victims

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tens of millions of dollars and [fund the C8 Science Panel and Health Project](#) after it dumped dangerously toxic chemicals into the water, air, and ground.

What is the Tiahrt Amendment and how does it protect the gun industry from liability?

The Tiahrt Amendment (an appropriations rider) provides that ATF’s Firearms Trace System data is immune from legal process, not subject to subpoena or other discovery, inadmissible in evidence, and cannot be used in a civil action in state or federal courts or in administrative proceedings.

It was not until after a series of lawsuits filed in the late 90’s by cities and victims of gun violence and their families that the gun industry began pushing to restrict the availability and usage of gun trace data. Using gun trace data – some successfully – the lawsuits argued that gun manufacturers were oversupplying dealers in states with weak gun laws and knew the surplus of guns would – through the so-called “Iron Pipeline” – end up in the hands of criminals in cities like New York and Chicago.

Proponents of the Tiahrt prohibitions on ATF gun trace data were successful in lobbying for the restrictions based on confidentiality concerns, even though prior policies allowed disclosure of trace data without interfering with ongoing criminal investigations or putting the lives of law enforcement, confidential sources, witnesses, and others at risk. Prior to implementation of the prohibitions, ATF published reports that included firearm trace data and made trace data available to researchers with disclosure restrictions while FOIA enabled ATF to withhold any information that could interfere with law enforcement efforts or endanger someone’s life or safety.