

EQUAL ACCESS TO JUSTICE FOR VICTIMS OF GUN VIOLENCE ACT



Introduced by Senator Richard Blumenthal (D-CT) and Representatives Adam Schiff (D-CA), Dwight Evans (D-PA), and Jason Crow (D-CO)

In 2005, President George W. Bush signed the top legislative priority of the corporate gun industry into law — the [Protection of Lawful Commerce in Arms Act](#) (PLCAA). PLCAA significantly contributes to the gun violence epidemic by enabling the gun industry to evade fundamental civil justice accountability, at the expense of victims of gun violence who are denied their right to hold the gun industry accountable for harm they have suffered. This law was passed in response to litigation brought by cities and individuals challenging the dangerous business practices of firearms manufacturers and retailers.

Even though PLCAA was not intended to bar accountability for misconduct, the gun industry claims that PLCAA provides it with sweeping immunity from civil liability, even where they have caused harm through their negligent conduct, defective products, or otherwise irresponsible behavior. Some courts have, albeit incorrectly, agreed. As a result, PLCAA has enabled firearm companies to put profits over people, created a chilling effect on litigation against the industry, and has rendered victims and survivors of gun violence without adequate redress for their injuries. PLCAA has also removed [key incentives](#) for the gun industry to adopt life-saving business practices and instead has provided cover to irresponsible gun dealers who supply the criminal gun market.

The *Equal Access to Justice for Victims of Gun Violence Act* will repeal PLCAA, ensuring justice for victims and survivors and removing barriers to holding irresponsible gun industry actors accountable.

HOW DOES PLCAA WORK?

PLCAA has been interpreted to provide the gun industry with unique legal protections. Specifically, except for narrow exceptions, to prohibit civil or administrative actions or proceedings against manufacturers or sellers for relief related to the criminal or unlawful misuse of a firearm.

Negligence is the most fundamental principle of civil justice in our legal system — it requires everyone in society to use reasonable care to not expose others to harm,

and holds them accountable when they cause harm by engaging in unreasonably dangerous conduct. Every business and person in America can be held accountable for their negligence — except the gun industry under some courts’ interpretation of PLCAA. Many courts have misread and misapplied the law as providing overly broad protections. According to the text of PLCAA, and its leading [supporters](#), such as former NRA Board Member and PLCAA lead sponsor Senator Larry Craig, PLCAA was not intended to “[prevent a single victim from obtaining relief for wrongs done to them by anyone in the gun industry.](#)” Yet, in light of the overly broad interpretation by many courts, PLCAA has had a chilling effect on civil cases against the gun industry and has worked to prevent victims and survivors from recovering damages they are owed after tragic injuries or deaths.

WHY IS PLCAA DANGEROUS?

■ PLCAA DENIES JUSTICE TO VICTIMS AND SURVIVORS

Victims should have recourse for the gun industry’s negligence and disregard for life. Gun dealers and manufacturers should be held responsible for negligent and irresponsible sales practices that are the proximate cause of an individual’s injuries or deaths, and for selling to somebody who is likely to harm themselves or others. Manufacturers who design firearms without life-saving safety features, such as [chamber-loaded indicators and magazine disconnect safeties](#), should be held liable for their design failures.

PLCAA denies victims their constitutional right to civil justice under the 5th Amendment, preventing them from receiving compensation for medical bills, pain and suffering, lost wages, and other debilitating effects of gun violence. The Superior Court of Pennsylvania recognized [the unconstitutionality of PLCAA](#), ruling that states have the authority not only to hold negligent gun dealers accountable in court, but to ensure that all victims have the right to seek civil justice against wrongdoers who cause them harm.

■ PLCAA PERPETUATES THE FLOW OF CRIME GUNS INTO COMMUNITIES OF COLOR

The latest available data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reveals that just [2.7% of dealers accounted for over 71% of crime gun traces](#). This small minority of gun dealers, [that are the sources of crime guns recovered in communities of color](#), typically sit outside those communities in less diverse and more affluent suburbs. Residents of these communities suffer from the chronic stress of daily interpersonal gun violence and the negative impacts on their community’s economic prosperity, without recourse or compensation, while irresponsible gun dealers face no consequences.

The implications of this lack of accountability cannot be overstated. While gun violence

touches Americans across the country, it disproportionately impacts communities of color. [Approximately 80%](#) of America's gun deaths occur in urban areas with large minority populations. Black Americans are [11 times more likely](#) than their white peers to be the victim of a firearm homicide, and this problem is exacerbated for Black males, who [lose four years in life expectancy](#) on the basis of gun violence alone.

■ PLCAA DISINCENTIVIZES RESPONSIBLE BUSINESS PRACTICES

The mere threat of civil liability motivates companies to adopt safe business practices that [prevent future injuries](#) and death. For example, [car manufacturers](#) made numerous safety improvements that have cut automobile-related deaths by 50% since the 1960s, primarily because of technological advancements spurred by fear of liability. PLCAA effectively removed this motivation for the gun industry, [disincentivizing](#) gun dealers from adopting safe sales practices and gun manufacturers from incorporating affordable life-saving safety devices into their products and monitoring their distribution practices.

While the gun industry claims that [mental health](#) and [violent video games](#) are to blame for gun violence, it's actually [common industry practices](#) that create the conditions necessary for most gun violence to occur. The limitations on litigation and the ability to hold the industry accountable prevents public awareness and deters regulatory changes, as well as disincentivizes independent action by the industry to avoid liability — all of which would reduce gun violence and save lives.

WHAT DOES THE *EQUAL ACCESS TO JUSTICE FOR VICTIMS OF GUN VIOLENCE ACT* DO?

- This legislation repeals the sections of PLCAA that some courts have relied on to give extraordinary and unnecessary protections to the gun industry, providing more paths to justice and recovery for victims and survivors of gun violence, and incentivizing good business practices.
- This legislation also permits victims and responsible industry actors to use ATF trace data as evidence in civil proceedings in State and Federal courts. This data is a crucial indicator of whether industry actors have behaved responsibly, including whether or not they have engaged in repeated sales to straw purchasers and traffickers, but has been banned from civil litigation for decades by legislative riders passed at the [behest of the gun industry](#).