



## LCAV's Statement on Congressional Passage of the Federal Gun Industry Immunity Bill

On October 20, 2005, the U.S. House of Representatives passed legislation (S. 397) to provide unprecedented legal immunity to the gun industry. That bill prohibits, with certain narrow exceptions, civil actions and administrative proceedings against manufacturers and sellers of firearms and ammunition and requires the dismissal of most lawsuits pending against the industry nationwide. The Senate passed S. 397 in July and President Bush has indicated that he will sign the legislation.

Once it is signed into law, the federal gun industry immunity bill will radically alter fundamental principles of tort law. Pursuant to those principles, individuals and businesses have a duty to use reasonable care to avoid foreseeable injury to others. When that duty has been breached, an injured party may bring an action for damages or other relief against the individual or business. The judicial system then determines whether relief should be granted.

Congress, however, has declared that these longstanding legal principles should exempt a single industry – an industry that produces a product which kills or injures close to 100,000 Americans each year. Such special legal protection for the gun industry is completely unjustified. Proponents of the immunity bill argue that Congressional action is needed to protect the gun industry from “frivolous” lawsuits. However, no evidence of such lawsuits has been provided. On the contrary, settlements reached in several recent actions have shown that such actions are meritorious and an effective way to hold negligent gun manufacturers and sellers accountable for their wrongful conduct. For example:

- In June of 2004, a West Virginia gun dealer agreed to pay \$1 million to two New Jersey police officers who were shot with a trafficked gun negligently sold by the dealer to a “straw” purchaser who bought the weapon for a convicted felon prohibited from purchasing firearms.
- In September of 2004, families of the D.C.-area sniper shootings entered into a \$2.5 million settlement with Bull’s Eye Shooters Supply, the dealer who “lost” the sniper’s assault rifle (along with more than 200 other guns), and Bushmaster Firearms, manufacturer of the assault rifle.
- In August of 2003, 12 California cities and counties entered into a settlement agreement with two major gun dealers and three wholesale gun distributors, requiring them to reform their business practices to stem the flow of guns to criminals. The local governments had not sought monetary damages.

Each of these actions would have been barred by the federal immunity legislation.

Passage of the federal immunity legislation is particularly egregious in light of the fact that the federal government has no authority to set safety standards for guns manufactured in this country or to order a recall of a gun that has been found to be defective. Thanks to the unparalleled political power of the gun lobby, the Consumer Product Safety Act, adopted in 1972, exempts guns and ammunition. (The Gun Control Act of 1968 gave the Bureau of Alcohol, Tobacco, Firearms and Explosives broad authority to block the importation of firearms and the agency has used that authority to keep defectively designed foreign weapons out of the country. Ironically, no federal agency has similar authority with respect to domestically manufactured firearms.) Under current law, individuals who are injured by defectively designed guns may bring suit for their injuries. Once the immunity bill is enacted, however, gun manufacturers and sellers will be insulated from such suits except in the narrowest of circumstances. For example, a gun maker could be immune from liability if a child accidentally shot another child with a gun that appeared to be unloaded, even if the shooting was foreseeable and could have been prevented by the addition of a basic safety feature.

Congressional passage of this blatant special interest legislation – which follows less than a year after the failure of Congress and President Bush to renew the federal assault weapon ban – demonstrates once again that our leaders in Washington are more interested in granting favors to the NRA than in protecting the health and safety of the American public.

Passage of the immunity bill is a call to action for all of us concerned about the epidemic of gun violence in our country. It is a call to speak out and to enlist friends and colleagues in this fight. Across the country, state and local governments are taking important steps to prevent gun violence. LCAV provides legal assistance in support of policy reform at the state and local levels, focusing our work where the gun violence prevention movement has had significant victories and where there is much more that we can accomplish.

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