

Immunity Statutes / Manufacturer Litigation

Immunity statutes are laws which grant legal protection, usually to a class of potential defendants. This term and the term "gun relief acts" have been used to describe recent laws providing unprecedented legal protection to the gun industry. Since the beginning of 1999, gun industry immunity legislation has been introduced in Congress and at least 46 states.

Federal Law

On April 9, 2003, the U.S. House of Representatives passed HR 1036, the "Protection of Lawful Commerce in Arms Act." That bill would generally immunize gun manufacturers, distributors, trade associations and dealers from liability whenever a person is damaged as a result of the "criminal or unlawful misuse" of a gun, even if that criminal act or misuse is foreseeable because of industry negligence or recklessness. This sweeping legislation would preclude actions in state, as well as federal, court and require the immediate dismissal of most lawsuits pending against the industry nationwide. It would also nullify the State of California's repeal of its immunity statute in 2002 (discussed below). Senator Larry Craig, R-Idaho, a former NRA board member, has introduced an identical bill, SB 659, in the Senate with 51 co-sponsors. Opponents of the bill have promised a filibuster.

State Laws

Immunity legislation has been proposed in at least 46 states and enacted in at least 31 states. These laws have been directed principally at the local and state governmental lawsuits against certain gun industry defendants. Such lawsuits have been filed by 33 local governments and one state, the State of New York. These suits are based on a variety of legal theories and are in various stages of litigation. In general, they allege that the defendants have marketed and distributed their handguns in ways which they know or should know create and feed an illegal secondary market in firearms, where unauthorized purchasers, such as felons, are able to obtain handguns for use in crime, to the injury of the government entity and its citizens.

A second claim central to a number of the lawsuits is that defendant manufacturers have failed to implement safer designs, including designs that would prevent unauthorized use of handguns by children and others. While some of the governmental lawsuits seek damages, others seek injunctive or other equitable relief and some seek both damages and equitable relief.

Of the 31 states that have adopted immunity laws, at least four, Alaska, Colorado, New Hampshire, and South Dakota, also protect the gun industry from lawsuits by individual gun victims or their legal successors in interest.

In 2002, California became the first state to repeal an immunity statute. That statute, adopted in 1983, stated that "[i]n a product liability action, no firearm or ammunition shall be deemed defective in design on the basis that the benefits of the product do not

outweigh the risk of injury posed by its potential to cause serious injury, damage, or death when discharged."

The Legislature moved to repeal the statute following the California Supreme Court's decision in *Merrill v. Navegar* (2001) 26 Cal. 4th 465, a case holding that the law immunized an assault weapons manufacturer from a negligence action brought by the victims of the 101 California Street massacre. For more information about *Merrill v. Navegar*, click [here](#).

For detailed information about government and private party lawsuits against the gun industry, the status of litigation involving gun industry immunity statutes in various states, or pending gun industry immunity legislation, visit the [Brady Center's Legal Action Project](#) and the [Coalition to Stop Gun Violence's Gun Industry Immunity](#) page.

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