

Union Calendar No. 456

107TH CONGRESS
2^D SESSION

H. R. 2037

[Report No. 107-727, Parts I and II]

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2001

Mr. STEARNS (for himself, Mr. ADERHOLT, Mr. BACA, Mr. BACHUS, Mr. BALLENGER, Mr. BARCIA, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BISHOP, Mr. BLUNT, Mr. BOUCHER, Mr. BROWN of South Carolina, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CANNON, Mr. CANTOR, Mr. CARSON of Oklahoma, Mr. CHABOT, Mr. CRAMER, Mr. CRANE, Mrs. CUBIN, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DELAY, Mr. DEMINT, Mr. DINGELL, Mr. DOOLITTLE, Mr. FLAKE, Mr. LUCAS of Oklahoma, Mr. GIBBONS, Mr. GOODE, Mr. GOODLATTE, Mr. GRAHAM, Mr. GRAVES, Mr. HALL of Texas, Mr. HANSEN, Ms. HART, Mr. HAYES, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. HOLDEN, Mr. HUNTER, Mr. ISSA, Mr. ISTOOK, Mr. JENKINS, Mr. JOHN, Mr. JOHNSON of Illinois, Mr. KELLER, Mr. KERNS, Mr. LARGENT, Mr. LUCAS of Kentucky, Mr. MANZULLO, Mr. MATHESON, Mr. GARY G. MILLER of California, Mr. NEY, Mr. NORWOOD, Mr. OBERSTAR, Mr. OTTER, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PICKERING, Mr. PITTS, Mr. RADANOVICH, Mr. RAHALL, Mr. REHBERG, Mr. ROGERS of Michigan, Mr. ROSS, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SCHAFFER, Mr. SCHROCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHOWS, Mr. SHUSTER, Mr. SIMMONS, Mr. SIMPSON, Mr. SKEEN, Mr. SMITH of Texas, Mr. SOUDER, Mr. STENHOLM, Mr. STRICKLAND, Mr. SUNUNU, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. TIAHRT, Mr. TRAFICANT, Mr. WALDEN, Mr. JONES of North Carolina, Mr. WHITFIELD, Mr. WICKER, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period

to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 7, 2002

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 7, 2002

Referral to the Committee on the Judiciary extended for a period ending not later than October 8, 2002

OCTOBER 8, 2002

Additional sponsors: Mr. VITTER, Mr. KNOLLENBERG, Mr. DUNCAN, Mr. ISAKSON, Mr. RILEY, Mr. LEWIS of Kentucky, Mr. PHELPS, Mr. POMBO, Mr. GILLMOR, Mr. BOEHNER, Mr. STUMP, Mr. HAYWORTH, Mr. COBLE, Mr. WATKINS, Mr. BRADY of Texas, Mr. GUTKNECHT, Mr. WELDON of Florida, Mr. HASTINGS of Washington, Mr. AKIN, Mr. MCINNIS, Mr. NETHERCUTT, Mr. PETERSON of Minnesota, Mr. LEWIS of California, Mr. PUTNAM, Mr. MASCARA, Mr. FLETCHER, Mr. BERRY, Mr. COSTELLO, Mr. HULSHOF, Mr. WAMP, Mr. MOLLOHAN, Mr. TAUZIN, Mr. MCKEON, Mr. TANCREDO, Mrs. CAPITO, Mr. GANSKE, Mr. HOBSON, Mr. COLLINS, Mr. MCHUGH, Mr. CAMP, Mr. UPTON, Mr. SKELTON, Mr. OXLEY, Mrs. EMERSON, Mr. BAKER, Mr. CHAMBLISS, Mr. TOOMEY, Mr. SCARBOROUGH, Mr. ARMEY, Mr. KINGSTON, Mr. MCCRERY, Mr. ENGLISH, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. WATTS of Oklahoma, Mr. KENNEDY of Minnesota, Mr. EVERETT, Mr. FORBES, Mr. GEKAS, Mr. TAYLOR of North Carolina, Mr. THOMAS, Mr. REYNOLDS, Mr. HOEKSTRA, Mr. SAXTON, Mr. BOEHLERT, Mr. MCINTYRE, Mr. TOM DAVIS of Virginia, Mr. OSBORNE, Mrs. BONO, Mr. THOMPSON of California, Mr. GORDON, Mr. WOLF, Mr. THUNE, Mr. SWEENEY, Mr. LATHAM, Mr. GALLEGLY, Mr. LAHOOD, Mrs. BIGGERT, Mr. LINDER, Mr. PORTMAN, Mr. COX, Mr. BOYD, Mr. JEFF MILLER of Florida, Mr. COMBEST, Mr. ROHRABACHER, Mr. PLATTS, Mrs. THURMAN, Mr. TURNER, Mr. GREENWOOD, Mr. SAM JOHNSON of Texas, Mr. BOOZMAN, Mr. ORTIZ, Mr. SHERWOOD, Mr. OSE, Mr. KANJORSKI, Mr. MICA, Mr. BONILLA, Mr. WELDON of Pennsylvania, Mr. ROYCE, Mr. CLEMENT, Mr. WILSON of South Carolina, Mr. CRENSHAW, Mr. MURTHA, Mr. LAMPSON, Mr. THORNBERRY, Mr. CALLAHAN, Mr. NUSSLE, Mr. LOBIONDO, Mr. TANNER, Mr. GREEN of Texas, Mr. DREIER, Mr. HILLIARD, Mr. QUINN, Mr. HILL, Mr. LATOURETTE, Mr. BILIRAKIS, Mr. SULLIVAN, Mr. EHLERS, Mr. ROGERS of Kentucky, Mr. GOSS, Mrs. NORTHUP, Ms. GRANGER, Mr. WELLER, Mr. SMITH of Michigan, Mr. FOLEY, Mr. DEAL of Georgia, Mr. GREEN of Wisconsin, Mr. BOSWELL, Mr. TIBERI, Mr. LARSEN of Washington, and Ms. PRYCE of Ohio

Deleted sponsor: Mr. SENSENBRENNER (added May 25, 2001; deleted August 2, 2001)

OCTOBER 8, 2002

Reported from the Committee on the Judiciary with amendments, committed

to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on May 25, 2001]

A BILL

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Protection of Lawful*
 5 *Commerce in Arms Act”.*

6 **SEC 2. AMENDMENT TO ORGANIC ACT.**

7 *The Act entitled “An Act to establish the Department*
 8 *of Commerce and Labor”, approved February 14, 1903 (15*
 9 *U.S.C. 1501 et seq.), is amended by redesignating section*
 10 *13 as section 14 and by inserting after section 12 the fol-*
 11 *lowing:*

12 **“SEC. 13. RESTRICTION ON COMMERCE.**

13 “(a) **SECRETARY OF COMMERCE LIST.**—*The Secretary*
 14 *of Commerce shall establish and maintain a list consisting*
 15 *of each person that notifies the Secretary under subsection*
 16 *(b) that such person is a licensed manufacturer of a firearm*

1 *or an ammunition product, a licensed seller of a firearm,*
2 *a licensed seller of an ammunition product, or a trade asso-*
3 *ciation representing such manufacturers or sellers. The list*
4 *shall contain the name of the person, the chief executive offi-*
5 *cer of the person, and the address and location of the head-*
6 *quarters of the person. The Secretary shall maintain and*
7 *update the list and may publish the list in the Federal Reg-*
8 *ister.*

9 “(b) *NOTIFICATION.—Each person that—*

10 “(1) *is a licensed manufacturer of a firearm or*
11 *an ammunition product,*

12 “(2) *is a licensed seller of a firearm,*

13 “(3) *is a licensed seller of an ammunition prod-*
14 *uct, or*

15 “(4) *is a trade association representing such*
16 *manufacturers or sellers,*

17 *may notify the Secretary of that person’s existence and pro-*
18 *vide to the Secretary the information described in sub-*
19 *section (a).*

20 “(c) *FREEDOM FROM RESTRICTION.—Conduct that—*

21 “(1) *is carried out by a licensed manufacturer of*
22 *a firearm or an ammunition product, involves such*
23 *firearm or ammunition product, and is described in*
24 *paragraph (5) of subsection (f),*

1 “(2) is carried out by a licensed seller of a fire-
2 arm, involves such firearm, and is described in para-
3 graph (7) of subsection (f),

4 “(3) is carried out by a licensed seller of an am-
5 munition product, involves such ammunition product,
6 and is described in paragraph (8) of subsection (f), or

7 “(4) is carried out by a trade association in the
8 course of organizing, advising, or representing its
9 members who are manufacturers of a firearm or an
10 ammunition product, sellers of a firearm, or sellers of
11 an ammunition product, with respect to conduct of
12 such manufacturers or sellers described in paragraph
13 (5), (7), or (8) of subsection (f), as the case may be,
14 and that is lawful under applicable Federal, State, or local
15 law, shall not be a basis for imposing a restriction on inter-
16 state or foreign commerce on a person on the list described
17 in subsection (a) as a result of harm caused by the criminal,
18 suicidal, negligent, or other unlawful misuse of any such
19 firearm or ammunition product by any other person.

20 “(d) *ABSENCE FROM LIST.*—The absence from the list
21 maintained under this section of any person who is a man-
22 ufacturer of a firearm or an ammunition product, a seller
23 of a firearm, or a seller of an ammunition product shall
24 not be construed to create any cause of action or to deprive

1 *such person of any lawful defense that may otherwise be*
2 *available to such person.*

3 “(e) *LIMITATION OF USE OF LIST.*—*No officer, agency,*
4 *or instrumentality of the United States may use the list*
5 *established and maintained under this section for any pur-*
6 *pose other than the enforcement of the provisions of this sec-*
7 *tion.*

8 “(f) *DEFINITIONS.*—*In this section:*

9 “(1) *AMMUNITION PRODUCT.*—*The term ‘ammun-*
10 *ition product’ means ‘ammunition’ as defined in*
11 *section 921(a)(17) of title 18, United States Code, and*
12 *includes a component part of such ammunition prod-*
13 *uct that has been shipped or transported in interstate*
14 *or foreign commerce.*

15 “(2) *ENGAGED IN THE BUSINESS.*—*The term*
16 *‘engaged in the business’ has the meaning given that*
17 *term in section 921(a)(21) of title 18, United States*
18 *Code, and, as applied to a seller of an ammunition*
19 *product described in paragraph (8)(A)(ii), means a*
20 *person who devotes, time, attention, and labor to the*
21 *sale of ammunition products as a regular course of*
22 *trade or business with the principal objective of liveli-*
23 *hood and profit through the sale or distribution of the*
24 *ammunition products.*

1 “(3) *FIREARM.*—*The term ‘firearm’ means ‘fire-*
2 *arm’ as defined in section 921(a)(3)(A) or (B) of title*
3 *18, United States Code, and includes—*

4 “(A) *any ‘antique firearm’ as defined in*
5 *section 921(a)(16) of such title; and*

6 “(B) *a component part of any firearm de-*
7 *scribed in this paragraph that has been shipped*
8 *or transported in interstate or foreign commerce.*

9 “(4) *INTERSTATE OR FOREIGN COMMERCE.*—*The*
10 *term ‘interstate or foreign commerce’ has the meaning*
11 *given that term in section 921(a)(2) of title 18,*
12 *United States Code.*

13 “(5) *MANUFACTURER; LICENSED MANUFAC-*
14 *TURER.*—

15 “(A) *MANUFACTURER.*—*The term ‘manufac-*
16 *turer of a firearm or an ammunition product’*
17 *means a ‘manufacturer’ as defined in section*
18 *921(a)(10) of title 18, United States Code, who*
19 *is engaged in the business of manufacturing a*
20 *firearm or an ammunition product in interstate*
21 *or foreign commerce.*

22 “(B) *LICENSED MANUFACTURER.*—*The term*
23 *‘licensed manufacturer of a firearm or an am-*
24 *munition product’ means any manufacturer de-*
25 *scribed in subparagraph (A) who is licensed*

1 *under chapter 44 of title 18, United States Code,*
2 *to be engaged in the business as such manufac-*
3 *turer.*

4 “(6) *RESTRICTION ON INTERSTATE OR FOREIGN*
5 *COMMERCE.—The term ‘restriction on interstate or*
6 *foreign commerce’—*

7 “(A) *means—*

8 “(i) *civil damages or equitable relief,*
9 *or*

10 “(ii) *any other limitation or condition,*
11 *awarded or ordered by a Federal, State, or local*
12 *court, that restricts the ability of a person on the*
13 *list established under subsection (a) to freely en-*
14 *gage in interstate or foreign commerce with re-*
15 *spect to firearms or ammunition products, or of*
16 *a trade association on the list established under*
17 *subsection (a) to freely engage in lawful activi-*
18 *ties on behalf of its membership; and*

19 “(B) *does not include any damages, equi-*
20 *table relief, or other limitation or condition aris-*
21 *ing from—*

22 “(i) *breach of contract or warranty in*
23 *connection with the purchase of a firearm*
24 *or an ammunition product;*

1 “(ii) *physical injuries or property*
2 *damage resulting directly from a defect in*
3 *design or manufacture of a firearm or an*
4 *ammunition product, when used as in-*
5 *tended; or*

6 “(iii) *the supplying of a firearm or an*
7 *ammunition product by a seller of a fire-*
8 *arm or seller of an ammunition product for*
9 *use by another person when the seller knows*
10 *or should know that the person to whom the*
11 *product has been supplied is likely to use*
12 *the product, and in fact does use the prod-*
13 *uct, in a manner involving unreasonable*
14 *risk of physical injury to that person and*
15 *others.*

16 “(7) *SELLER OF A FIREARM; LICENSED SELL-*
17 *ER.—*

18 “(A) *SELLER.—The term ‘seller of a fire-*
19 *arm’ means—*

20 “(i) *an importer as defined in section*
21 *921(a)(9) of title 18, United States Code,*
22 *with respect to firearms, or*

23 “(ii) *a dealer as defined in section*
24 *921(a)(11) of title 18, United States Code,*

1 *who is engaged in the business as such importer*
2 *or dealer in interstate or foreign commerce.*

3 “(B) *LICENSED SELLER.*—*The term ‘li-*
4 *censed seller of a firearm’ means a seller of a*
5 *firearm who is licensed under chapter 44 of title*
6 *18, United States Code, to be engaged in the*
7 *business as an importer or dealer described in*
8 *subparagraph (A).*

9 “(8) *SELLER OF AMMUNITION PRODUCT; LI-*
10 *CENSED SELLER.*—

11 “(A) *SELLER.*—*The term ‘seller of an am-*
12 *munition product’ means—*

13 “(i) *an importer as defined in section*
14 *921(a)(9) of title 18, United States Code,*
15 *with respect to ammunition products, who*
16 *is engaged in the business as such importer*
17 *in interstate or foreign commerce; or*

18 “(ii) *any other person who is engaged*
19 *in the business of selling ammunition prod-*
20 *ucts, including component parts of such*
21 *ammunition products, in interstate or for-*
22 *foreign commerce at the wholesale or retail*
23 *level, consistent with Federal, State, and*
24 *local law.*

1 “(B) *LICENSED SELLER.*—*The term ‘li-*
2 *censed seller of an ammunition product’*
3 *means—*

4 “(i) *an importer described in clause (i)*
5 *of subparagraph (A) who is licensed to be*
6 *engaged in the business as such an importer*
7 *under chapter 44 of title 18, United States*
8 *Code; and*

9 “(ii) *any other person described in*
10 *clause (ii) of subparagraph (A) who has met*
11 *all applicable requirements under Federal,*
12 *State, or local law to be licensed to be en-*
13 *gaged in the business as a seller described in*
14 *that clause.*

15 “(9) *STATE.*—*The term ‘State’ includes the Dis-*
16 *trict of Columbia, the Commonwealth of Puerto Rico,*
17 *and any territory of possession of the United States.*

18 “(10) *TRADE ASSOCIATION.*—*The term ‘trade as-*
19 *sociation’ means any association or business organi-*
20 *zation (whether or not incorporated under the laws of*
21 *any State) that is not operated for profit, and 2 or*
22 *more members of which are manufacturers of a fire-*
23 *arm or an ammunition product, sellers of a firearm,*
24 *or sellers of an ammunition product.’.*

1 SECTION 1. SHORT TITLE.

2 **This Act may be cited as the “Protection**
3 **of Lawful Commerce in Arms Act”.**

4 SEC. 2. FINDINGS; PURPOSES.

5 **(a) FINDINGS.—The Congress finds the fol-**
6 **lowing:**

7 **(1) Citizens have a right, under the**
8 **Second Amendment to the United States**
9 **Constitution, to keep and bear arms.**

10 **(2) Lawsuits have been commenced**
11 **against manufacturers, distributors, deal-**
12 **ers, and importers of nondefective fire-**
13 **arms, which seek money damages and**
14 **other relief for the harm caused by the**
15 **misuse of firearms by third parties, in-**
16 **cluding criminals.**

17 **(3) The manufacture, importation,**
18 **possession, sale, and use of firearms and**
19 **ammunition in the United States is heav-**
20 **ily regulated by Federal, State, and local**
21 **laws. Such Federal laws include the Gun**
22 **Control Act of 1968, the National Fire-**
23 **arms Act, and the Arms Export Control**
24 **Act.**

25 **(4) Businesses in the United States**
26 **that are engaged in interstate and for-**

1 **eign commerce through the lawful de-**
2 **sign, marketing, distribution, manufac-**
3 **ture, importation, or sale to the public of**
4 **firearms or ammunition that have been**
5 **shipped or transported in interstate or**
6 **foreign commerce are not, and should not**
7 **be, liable for the harm caused by those**
8 **who criminally or unlawfully misuse fire-**
9 **arm products or ammunition products.**

10 **(5) The possibility of imposing liabil-**
11 **ity on an entire industry for harm that is**
12 **the sole responsibility of others is an**
13 **abuse of the legal system, erodes public**
14 **confidence in our Nation's laws, threat-**
15 **ens the diminution of a basic constitu-**
16 **tional right, invites the disassembly and**
17 **destabilization of other industries and**
18 **economic sectors lawfully competing in**
19 **America's free enterprise system, and**
20 **constitutes an unreasonable burden on**
21 **interstate and foreign commerce.**

22 **(6) The liability actions commenced**
23 **or contemplated by municipalities and**
24 **cities are based on theories without foun-**
25 **dation in hundreds of years of the com-**

1 **mon law and American jurisprudence.**
2 **The possible sustaining of these actions**
3 **by a maverick judicial officer would ex-**
4 **pand civil liability in a manner never**
5 **contemplated by the Framers of the Con-**
6 **stitution. The Congress further finds that**
7 **such an expansion of liability would con-**
8 **stitute a deprivation of the rights, privi-**
9 **leges, and immunities guaranteed to a**
10 **citizen of the United States under the**
11 **Fourteenth Amendment to the United**
12 **States Constitution.**

13 **(b) PURPOSES.—The purposes of this Act**
14 **are as follows:**

15 **(1) To prohibit causes of action**
16 **against manufacturers, distributors, deal-**
17 **ers, and importers of firearms or ammu-**
18 **nition products for the harm caused by**
19 **the criminal or unlawful misuse of fire-**
20 **arm products or ammunition products by**
21 **others.**

22 **(2) To preserve a citizen's access to a**
23 **supply of firearms and ammunition for**
24 **all lawful purposes, including hunting,**

1 self-defense, collecting, and competitive
2 or recreational shooting.

3 (3) To guarantee a citizen's rights,
4 privileges, and immunities, as applied to
5 the States, under the Fourteenth Amend-
6 ment to the United States Constitution,
7 pursuant to section five of that Amend-
8 ment.

9 (4) To prevent the use of such law-
10 suits to impose unreasonable burdens on
11 interstate and foreign commerce.

12 SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL
13 LIABILITY ACTIONS IN FEDERAL OR STATE
14 COURT.

15 (a) IN GENERAL.—A qualified civil liability
16 action may not be brought in any Federal or
17 State court.

18 (b) DISMISSAL OF PENDING ACTIONS.—A
19 qualified civil liability action that is pending
20 on the date of the enactment of this Act shall
21 be dismissed immediately by the court in
22 which the action was brought.

23 SEC. 4. DEFINITIONS.

24 In this Act:

1 **(1) ENGAGED IN THE BUSINESS.—**The
2 **term “engaged in the business”** has the
3 **meaning given that term in section**
4 **921(a)(21) of title 18, United States Code,**
5 **and, as applied to a seller of ammunition,**
6 **means a person who devotes, time, atten-**
7 **tion, and labor to the sale of ammunition**
8 **as a regular course of trade or business**
9 **with the principal objective of livelihood**
10 **and profit through the sale or distribu-**
11 **tion of ammunition.**

12 **(2) MANUFACTURER.—**The term “manu-
13 **facturer”** means, with respect to a quali-
14 **fied product, a person who is engaged in**
15 **the business of manufacturing the prod-**
16 **uct in interstate or foreign commerce and**
17 **who is licensed to engage in business as**
18 **such a manufacturer under chapter 44 of**
19 **title 18, United States Code.**

20 **(3) PERSON.—**The term “person”
21 **means any individual, corporation, com-**
22 **pany, association, firm, partnership, soci-**
23 **ety, joint stock company, or any other en-**
24 **tity, including any governmental entity.**

1 **(4) QUALIFIED PRODUCT.—**The term
2 **“qualified product”** means a firearm (as
3 **defined in subparagraph (A) or (B) of sec-**
4 **tion 921(a)(3) of title 18, United States**
5 **Code, including any antique firearm (as**
6 **defined in section 921(a)(16) of such**
7 **title)), or ammunition (as defined in sec-**
8 **tion 921(a)(17) of such title), or a compo-**
9 **nent part of a firearm or ammunition,**
10 **that has been shipped or transported in**
11 **interstate or foreign commerce.**

12 **(5) QUALIFIED CIVIL LIABILITY ACTION.—**

13 **(A) IN GENERAL.—**The term **“quali-**
14 **fied civil liability action”** means a
15 **civil action brought by any person**
16 **against a manufacturer or seller of a**
17 **qualified product, or a trade associa-**
18 **tion, for damages resulting from the**
19 **criminal or unlawful misuse of a**
20 **qualified product by the person or a**
21 **third party, but shall not include—**

22 **(i) an action brought against a**
23 **transferor convicted under sec-**
24 **tion 924(h) of title 18, United**
25 **States Code, or a comparable or**

1 identical State felony law, by a
2 party directly harmed by the con-
3 duct of which the transferee is so
4 convicted;

5 (ii) an action brought against
6 a seller for negligent entrustment
7 or negligence per se;

8 (iii) an action where a manu-
9 facturer or seller of a qualified
10 product knowingly and willfully
11 violated a State or Federal statute
12 applicable to the sale or mar-
13 keting of the product, and the vio-
14 lation was a proximate cause of
15 the harm for which relief is
16 sought;

17 (iv) an action for breach of
18 contract or warranty in connec-
19 tion with the purchase of the
20 product; or

21 (v) an action for physical inju-
22 ries or property damage resulting
23 directly from a defect in design or
24 manufacture of the product, when
25 used as intended.

1 **(B) NEGLIGENCE ENTRUSTMENT.—**In
2 subparagraph (A)(ii), the term “neg-
3 ligent entrustment” means the sup-
4 plying of a qualified product by a sell-
5 er for use by another person when
6 the seller knows or should know the
7 person to whom the product is sup-
8 plied is likely to use the product, and
9 in fact does use the product, in a
10 manner involving unreasonable risk
11 of physical injury to the person and
12 others.

13 **(6) SELLER.—**The term “seller” means,
14 with respect to a qualified product—

15 **(A)** an importer (as defined in sec-
16 tion 921(a)(9) of title 18, United States
17 Code) who is engaged in the business
18 as such an importer in interstate or
19 foreign commerce and who is li-
20 censed to engage in business as such
21 an importer under chapter 44 of title
22 18, United States Code;

23 **(B)** a dealer (as defined in section
24 921(a)(11) of title 18, United States
25 Code) who is engaged in the business

1 **as such a dealer in interstate or for-**
2 **foreign commerce and who is licensed to**
3 **engage in business as such a dealer**
4 **under chapter 44 of title 18, United**
5 **States Code; or**

6 **(C) a person engaged in the busi-**
7 **ness of selling ammunition (as de-**
8 **fin ed in section 921(a)(17) of title 18,**
9 **United States Code) in interstate or**
10 **foreign commerce at the wholesale or**
11 **retail level, consistent with Federal,**
12 **State, and local law.**

13 **(7) STATE.—The term “State” includes**
14 **each of the several States of the United**
15 **States, the District of Columbia, the Com-**
16 **monwealth of Puerto Rico, the Virgin Is-**
17 **lands, Guam, American Samoa, and the**
18 **Commonwealth of the Northern Mariana**
19 **Islands, and any other territory or pos-**
20 **session of the United States, and any po-**
21 **litical subdivision of any such place.**

22 **(8) TRADE ASSOCIATION.—The term**
23 **“trade association” means any associa-**
24 **tion or business organization (whether or**
25 **not incorporated under Federal or State**

1 **law) that is not operated for profit, and 2**
2 **or more members of which are manufac-**
3 **turers or sellers of a qualified product.**

Amend the title so as to read as follows: “A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.”.

Union Calendar No. 456

107TH CONGRESS
2^D SESSION

H. R. 2037

[Report No. 107-727, Parts I and II]

A BILL

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

OCTOBER 8, 2002

Reported from the Committee on the Judiciary with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed