

SECTION 1. Armaments Industrial Base Policy Clarified.

Section 7552. of title 10 United States Code is amended by inserting after paragraph (9) the following new paragraph:

(10) to protect the commercial firearm and ammunition industry from lawsuits seeking to impose civil liability for the criminal and unlawful misuse of legal, non-defective, lawfully manufactured and sold products which litigation threatens the United States small arms defense industrial base critical to national security.

SEC. 2. CLARIFYING THE BROAD SCOPE OF IMMUNITY AGAINST QUALIFIED CIVIL ACTIONS.

Section 3 of the Protection of Lawful Commerce in Arms Act (15 U.S.C. 7902) is amended by striking sub section (b) and inserting the following:

“(b) DISMISSAL OF PENDING ACTIONS. —A qualified civil liability action, including any claims asserted therein, that is pending on the date of enactment of the Stopping Harmful and Outrageous Torts Act, shall be immediately dismissed by the court in which the action was brought or is currently pending.”

SEC. 3. UPDATING DEFINITIONS TO HALT THE SPREAD OF FRIVOLOUS LAWSUITS.

Section 4 of the Protection of Lawful Commerce in Arms Act (15 U.S.C. 7903) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) ENGAGED IN THE BUSINESS. —The term “engaged in the business” means devoting time, attention, and labor to the sale, manufacture, or importation of a qualified product as a regular course of trade or business.”;

(2) in paragraph (2), by striking “commerce” and all that follows through the period at the end and inserting “commerce, including any owner and employee of such person”;

(3) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(4) by inserting after paragraph (3) the following: “(4) PROXIMATE CAUSE. — The term ‘proximate cause’ means that the plaintiff was directly injured by the allegedly unlawful conduct of the defendant.”;

(5) by striking paragraph (5), as so redesignated, and inserting the following:

“(5) QUALIFIED PRODUCT. —The term ‘qualified product’ means a firearm (as defined in subparagraph (A), (B), or (C) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), ammunition (as defined in section 921(a)(17)(A) of such title), or a component part of, or an accessory intended for use with, a firearm or ammunition, including ammunition magazines or clips, optical devices, or other products intended to be included in, attached to, or used while attached to, or in conjunction with, a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.”;

(6) by striking paragraph (6), as so redesignated, and inserting the following:

“(6) QUALIFIED CIVIL LIABILITY ACTION.

“(A) IN GENERAL. —The term ‘qualified civil liability action’ means a civil action, proceeding, or administrative proceeding, or any claim asserted therein, brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from, on the basis of, arising out of, or in relation to the criminal or unlawful misuse, alteration, or modification of a qualified product by the person or a third party, under any theory of liability, including statutory claims or claims arising from tort or contract, but shall not include—

“(i) a claim brought against a transferor convicted under section 924(h) of 19 title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

“(ii) a claim brought against a seller for negligent entrustment or negligence per se;

“(iii) a claim—

“(I) in which a manufacturer or seller of a qualified product knowingly violated chapter 44 of title 18, United States Code, chapter 53 of the Internal Revenue Code of 1986, the Arms Export Control Act (22 U.S.C. 2751 et seq.), or the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.), or an equivalent State statute, that is intended to and exclusively imposes specific and concrete obligations on manufacturers and sellers regarding the manner in which qualified products are manufactured, distributed, or transferred to unlicensed persons;

“(II) in which the violation was a proximate cause of the harm for which relief is sought; and

“(III) that is not premised on nuisance or negligence, whether based in statute or common law; “(iv) a claim for breach of contract or warranty in connection with the purchase of the product;

“(v) a claim for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when being lawfully used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act which meets the elements of a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

“(vi) a claim or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986.

“(B) NEGLIGENT ENTRUSTMENT. —As used in subparagraph (A)(ii), the term ‘negligent entrustment’—

“(i) means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is themselves likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others; and

“(ii) does not include instances in which the harm was caused by a person who was not entrusted with the qualified product directly by the seller.

“(C) RULE OF CONSTRUCTION. —The exceptions enumerated under clauses (i) through (v) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this

Act shall be construed to create a public or private cause of action, claim, or remedy.

“(D) MINOR CHILD EXCEPTION. —Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets one of the requirements under clauses (i) through (v) of subparagraph (A).

“(E) FOREIGN STATE AND GOVERNMENTS. —

“(i) DEFINITION. —The term ‘foreign state or government’ includes any entity, agency, or instrumentality of a foreign state or government.

“(ii) PROHIBITION. —No foreign state or government may bring civil action, proceeding, or administrative proceeding, or any claim asserted therein against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from, on the basis of, arising out of, or in relation to the criminal or unlawful misuse, alteration, or modification of a qualified product by the person or a third party, under any theory of liability, including statutory claims or claims arising from tort or contract, in any Federal or State court. The exceptions to immunity provided under clauses (i) through (v) of subparagraph (A) shall not apply to any claim brought by a foreign state or government and may not be asserted by any foreign state or government in any Federal or State court.”

(7) by striking paragraph (7), as so redesignated, and inserting the following:

“(7) SELLER. —The term ‘seller’, with respect to a qualified product—

“(A) means—

“(i) an importer (as defined in section (a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of that title;

“(ii) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of that title;

“(iii) a person engaged in the business of selling ammunition (as defined in section 921(a)(17)(A) of title 18, United States Code); or

“(iv) a person engaged in the business of selling any other qualified product in interstate or foreign commerce at the wholesale or retail level, including import and export;

“(B) includes any owner or employee of the seller; and

“(C) does not include any manufacturer.”

SEC. 4. PROCEDURE FOR REMOVAL AND DISMISSAL.

The Protection of Lawful Commerce in Arms Act (15 U.S.C. 7901 et seq.) is amended by inserting after section 3 (15 U.S.C. 7902) the following:

“SEC. 3A. PROCEDURE.

“(a) REMOVAL AND DISMISSAL. —

“(1) IN GENERAL. —In any action before a State court in which a defendant that is a manufacturer, seller, or trade association asserts that the action is a qualified civil liability action, the manufacturer, seller, or trade association may remove the action to the district court of the United States for the district and division embracing the place where such action is pending.

“(2) JURISDICTION. —

“(A) IN GENERAL. —The district court shall have jurisdiction over an action described in paragraph (1) if the defendant seeking removal makes a colorable assertion that at least 1 of the claims is a qualified civil liability action.

“(B) SUPPLEMENTAL JURISDICTION. —The district court may exercise supplemental juris⁷

diction over all other claims in the action that

arise out of the same common nucleus of operative facts.

“(3) MOTION TO DISMISS. —Upon determination by the district court that removal is proper, the defendant shall have 30 days to file a motion to dismiss.

“(4) DISCRETION. —The district court has the discretion to retain jurisdiction to resolve any remaining claims in the case even upon the dismissal of claims barred by the immunity granted by this Act if doing so comports with judicial economy, convenience, fairness to the parties, and comity.

“(5) REVIEW. —An order remanding a case to the State court from which it was removed pursuant to this section shall be immediately reviewable on appeal.

“(b) PLEADING. —

“(1) IN GENERAL. —A claim brought against a manufacturer or seller of a qualified product, or a trade association, premised on any of the exceptions listed in clauses (i) through (vi) of section 3(6)(A) shall plead with particularity the factual allegations providing the basis for the application of the exception, including those facts necessary to establish scienter and proximate cause.

“(2) EXCEPTIONS. —A claim brought against a manufacturer or seller of a qualified product, or a trade association, premised on an exception to the immunity granted in this Act shall allege particularized facts showing that the manufacturer or seller of a qualified product, or trade association, was the proximate cause of the damages alleged. The court shall determine whether the particularized facts alleged by the plaintiff suffice to establish proximate cause as a matter of law.

“(c) INTERLOCUTORY APPEALS AS OF RIGHT. —A defendant shall have the right to take an immediate interlocutory appeal of an order, denying a motion to dismiss based on any provision of this Act.

“(d) ATTORNEY’S FEES FOR PREVAILING DEFENDANTS. —A defendant who prevails in asserting the immunity granted in this Act shall be entitled to reasonable attorney fees and court costs.”

SEC. 5. PREEMPTION.

The Protection of Lawful Commerce in Arms Act (15U.S.C. 7901 et seq.), as amended by section 4 of this Act, is amended by adding at the end the following:

“SEC. 3B. PREEMPTION.

“The provisions of this Act expressly preempt any State and local laws (including regulations) that specifically impose liability on qualified product manufacturers, sellers, and trade associations, or that attempt to do so in a generally applicable manner insofar as the State or local law (including regulations) allows for civil actions, civil proceedings, and administrative proceedings for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, penalties, or other relief resulting from the criminal misuse, alteration, or modification of a qualified product under any theory of liability, including any statutory claim arising from tort or contract.”