make or solicit transmission of child pornography to adults and minors. Section 603(2) also making it a crime to send or display child pornography by computer to persons under 18.

Sec. 604. Internet availability of information concerning registered sex offenders

Section 604 of the conference report is a new section that is related to the purpose of this Act. To protect children, current law requires a state, or any agency authorized by the state, to release information to the public regarding persons required to register as sex offenders. Section 604 amends the Violent Crime Control and Law Enforcement Act of 1994 to authorize states to create an Internet site containing the names of sex offenders within three years.

Sec. 605. Registration of child pornographers in the National Sex Offender Registry

Section 605 of the conference report is a new section that is related to the purpose of this Act. Current law requires a person convicted of certain criminal offenses against a minor or certain sexually violent offenses to register with the sex offender registry. Section 605 amends Violent Crime Control and Law Enforcement Act of 1994 by including in the crimes against children and sexually violent offender registration program persons convicted of crimes relating to the production and distribution of child pornography and appropriates sufficient funds to make such chance to the Department of Justice.

Sec. 606. Grants to states for costs of compliance with new sex offender registry requirements

Section 606 of the conference report is a new section that is related to the purpose of this Act. The Violent Crime Control and Law Enforcement Act of 1994 authorized $25 million for fiscal years 1999 and 2000 to establish a grant program, the Sex Offender Management Assistance program, to the states to offset the costs associated with establishing and maintaining a sex offender registry. Section 606 amends the Violent Crime Control and Law Enforcement Act of 1994 by authorizing sufficient funds to the states for fiscal years 2004 through 2007 to continue to carry out Sex Offender Management Assistance Programs.

Sec. 607. SAFE ID Act

Section 607 of the conference report is a new section that is related to the purpose of this Act. Under current law, it is not illegal to possess, traffic in, or use false or misleading authentication features whose purpose is to create fraudulent IDs. Section 607 would correct this oversight by making it a crime to counterfeit or alter ''authentication features,'' as well as to traffic such features in false identification documents or without the authorization of the appropriate authority. Authentication features are the holograms, symbols, codes, etc., used by the issuing authority to verify that an ID is authentic. In addition, this section requires forfeiture of equipment used in creating or trafficking in illicit authentication features. This section will help the fight against child abduction, terrorism, identity theft, and underage drinking, among other things, by addressing the growing trade in illicit authentication feature for IDs.

Sec. 608. Illicit Drug Anti-Proliferation Act

Section 608 of the conference report is a new section that is related to the purpose of this Act. This section, known as the Illicit Drug Anti-Proliferation Act, helps to protect children by amending the Controlled Substances Act to expand the ''crack house'' statute.[17] This expansion makes it clear that anyone who knowingly and intentionally uses their property, or allows another person to use their property, for the purpose of distributing or manufacturing or using illegal drugs will be held accountable. This section raise the penalties for people who traffic in a substance often marketed to children at clubs; and authorizing funds for drug prevention activities. It also creates a civil penalty for violating 21 U.S.C. §856.

In addition, the language directs the Sentencing Commission to consider increasing the sentencing guidelines for offenses involving gamma hydroxybutyric acid (GHB), a Schedule I substance often used to facilitate sexual assault. Under current law, an offender would have to have 13 gallons (equivalent to 100,000 doses) of GHB to qualify for a five year penalty. Because large-scale GHB dealers generally distribute gallon quantities of the drug, they generally are not prosecuted at the federal level because the penalties are too low. In order to prevent the abuse of club drugs and other illicit substances, the bill also authorizes $5.9 million for the Drug Enforcement Administration to hire a Demand Reduction Coordinator in each state and authorizes such sums as may be necessary for the Drug Enforcement Administration to educate youth, parents and other interested adults about the dangers associated with club drugs.

Sec. 609. Definition of vehicle

Section 609 of the conference report is a new section that is related to the purpose of this Act. This section amends 18 U.S.C. §1993(c) prohibiting terrorist attacks and other acts of violence against mass transportation systems to add a new section (a)(9) to define ''vehicle'' as itany carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''

Sec. 610. John Doe/DNA indictments

Section 610 of the conference report is a new section that is related to the purpose of this Act. Section 610 would change current law to encourage Federal prosecutors to bring ''John Doe/DNA indictments'' in Federal sex crimes. Specifically, the provision amends 18 U.S.C. §3282 to authorize Federal prosecutors to issue an indictment identifying an unknown defendant by a DNA profile within the five-year statute of limitations. If the indictment is issued within the five-year statute of limitations, the statute is then tolled until the perpetrator is identified through the DNA profile at a later date. The John Doe/DNA indictment would permit prosecution at anytime once there was a DNA ''cold hit'' through the national DNA database system. John Doe/DNA indictments strike the right balance between encouraging swift and efficient investigations, recognizing the durability and credibility of DNA evidence, and preventing an injustice if a ''cold hit'' occurs years after the crime and law enforcement did not promptly process forensic evidence. Providing incentives for law enforcement to test crime scene DNA from sexual assaults will also help identify sex offenders (who are often recidivists) to permit their speedy apprehension and prosecution.

Sec. 611. Transitional housing assistance grants for child victims of domestic violence, stalking, or sexual assault

Section 611 of the conference report is a new section that is related to the purpose of this Act. This section amends Subtitle B of the Violence Against Women Act of 1994 (42 U.S.C. 13701 note; 108 Stat. 1925) to authorize $30 million for the Attorney General to award grants to organizations, States, units of local government, and Indian tribes to carry out programs to provide assistance to individuals who are in need of transitional housing or related assistance as a result of fleeing, a situation of domestic violence, and for whom emergency shelter services or other crisis intervention services are unavailable or insufficient.

The grants may be used for programs that provide short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses. Grants will also be available for support services designed to help individuals locate and secure permanent housing, as well as integrate into a community by providing with services, such as transportation, counseling, child care services, case management, employment counseling, and other assistance. Any recipient of a grant must annually prepare and submit a report to the Attorney General describing the number of minors, adults, and dependents assisted, and the types of housing assistance and support services provided.

Under the program, victims would be eligible for assistance for a period of 18 months and would be entitled to seek a waiver for an additional six months of assistance based on an inability to obtain adequate housing.

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendments, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HOWARD COBLE,
LAMAR SMITH,
MARK GREEN,
MELISSA A. HART.

For consideration of the Senate bill and House amendments, and modifications committed to conference:

MARTIN FROST.

From the Committee on Equation and the Workforce, for consideration of sec. 8 of the Senate bill and secs. 222, 305, and 508 of the House amendments, and modifications committed to conference:

PETE HOEKSTRA,
PHIL GINGREY,
RUBÉN HINOJOSA.

From the Committee on Transportation and Infrastructure, for consideration of sec. 303 and title IV of the House amendments, and modifications committed to conference:

DON YOUNG,
TOM PETRI,
JIM MATHESON,
Managers on the Part of the House.

ORRIN HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
LINDSEY GRAHAM,
JOE BIDEN,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1036 to be considered later.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The SPEAKER pro tempore (Mr. SESSIONS). Pursuant to House Resolution 181 and rule XVIII, the Chair declares the House in the Committee of the

[17] 21 U.S.C. §856.

Whole House on the State of the Union for the consideration of the bill, H.R. 1036.

The Chair designates the gentleman from Illinois (Mr. SHIMKUS) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1131

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1036) 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, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, logic and fairness dictate that manufacturers and sellers should not be held responsible for the unlawful use of their lawful products. H.R. 1036 will stop ludicrous lawsuits against the manufacturer or seller of firearms for harm resulting from the criminal or unlawful misuse of their products by prohibiting such lawsuits from being filed in State or Federal court.

H.R. 1036, which has significant bipartisan support, does not preclude lawsuits against a person who transfers a firearm or ammunition knowing that it will be used to commit a crime of violence or a drug trafficking crime. It also does not prevent lawsuits against a seller for negligent entrustment or negligence per se.

The bill also includes several additional exceptions, including an exception for actions in which a manufacturer or seller of a qualified product knowingly and willfully violates any State or Federal statute applicable to sales or marketing when such violation was a proximate cause of the harm for which relief is sought. Other exceptions include actions for breach of contract or warranty and an exception for actions for damages resulting directly from a defect in design or manufacture.

Recent litigation against the tobacco industry that forced multibillion dollar settlements has inspired lawsuits against a much smaller firearms industry on theories of liability that would hold it financially responsible for the harm caused, through no fault of its own, by those who criminally misuse its products. While some of these lawsuits have been dismissed, and some States have acted to limit them in one way or another, the fact remains that these lawsuits continue to be aggressively pursued. Such lawsuits threaten to rip tort law from its moorings in personal responsibility and drive firearms manufacturers out of business.

John Coale, one of the personal injury lawyers suing the gun industry, told the Washington Post, ''The legal fees alone are enough to bankrupt the industry.'' The police, along with our military, also rely on the domestic firearms industry to supply them with reliable and accurate weapons that can best protect them in the line of fire. The best and most reliable guns are not going to be those designed under requirements personal injury attorneys seek to impose in firearms lawsuits.

Lawsuits seeking to hold the firearms industry responsible for the criminal and unlawful use of its products are brazen attempts to accomplish through litigation what has not been achieved by legislation and the democratic process. Various courts have correctly described such suits as ''improper attempts to have the court substitute its judgment for that of the legislature.'' As explained by another Federal judge, ''The plaintiff's attorneys simply want to eliminate handguns.''

Under the currently unregulated tort system, personal injury lawyers are seeking to obtain through the courts stringent limits on the sale and distribution of firearms beyond the court's jurisdictional boundaries. Such State lawsuits in a single county could destroy a national industry and deny citizens nationwide the right to keep and bear arms guaranteed by the Constitution. Insofar as these lawsuits have the practical effect of burdening interstate commerce in firearms, Congress has the authority to act under the commerce clause of the Constitution.

In 1985, one Federal judge said it would be nonsensical to claim that a product can be defective under the law when it has no defect. He predicted that the plaintiff's unconventional application of tort law against such a product would also apply to automobiles, knives and even high-calorie food.

In 1999, another judge observed that cities suing the firearms industry ''have envisioned the dawning of a new age of litigation during which the gun industry, liquor industry, and purveyors of junk food would follow the tobacco industry in reimbursing government expenditures.'' Only a few years later, that disastrous new age of litigation is already upon us, and even once-fanciful lawsuits against fast food companies are rapidly proliferating.

Congress must do what it can to stop the slide down this slippery slope. It is time for Congress to fulfill its constitutional duty and exercise its authority under the commerce clause to prevent a few State courts from bankrupting the national firearms industry and denying all Americans their fundamental right to bear arms.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I ask unanimous consent to control the time of the gentleman from Michigan (Mr. CONYERS) in opposition to the bill.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT. Mr. Chairman, I yield myself as much time as I may consume.

First of all, I think I want to clarify this debate because, starting at 7:30 this morning, eight o'clock this morning, I was on a television show debating about the bill I thought, and I heard all of the arguments related to how trial lawyers are irresponsible, how judges are irresponsible. I heard arguments about whether people ought to have guns or not have guns.

I submit to my colleagues that this debate is not about any of that. It is about a bill which I believe is an extreme bill, and I want to call my colleagues' attention to five points.

This is reform. I believe it is extreme reform. We are not talking about capping recoveries or putting a limit on recoveries from gun manufacturers, sellers, dealers, importers. We are talking about immunizing them from their liability for negligence. So this is extreme reform. It is not the kind of reform that we have been talking about in other contexts.

The second point I want to make is, this is unprecedented reform. The reform that this bill would provide is not available to any other manufacturer in America. It is not available to the automobile industry. It is not available to the pharmaceutical industry. It is not, despite what my chairman has said, about the tobacco industry. It is not available to the tobacco or the cigarette industry. There is no industry in America that has this kind of immunity. So it is unprecedented reform that is being sought here.

The third point I want to make is, this is not well-thought-out reform. There are major problems with this bill, and the committee made no effort to try to debate those problems, consider those problems, try to correct those problems.

There was no markup. If my colleagues heard the debate on the rule, there really was no markup. The total markup of this bill in committee took a total of 44 minutes, 44 minutes, and most of that was spent debating and arguing about whether the previous question ought to have been called. So these issues have not been considered. So we have got a bill that has not been well thought out because nobody has taken the time to worry about the specific provisions in the bill.

The fourth point I would make to my colleagues is that this is unconstitutional reform. We have a bill that says,

not only will it apply henceforth, now and forever, forward, but it will apply henceforth, now and forever, backwards. So if a person had a lawsuit and they are already in court, they already had their trial, their case is on appeal, this lawsuit would tell the appeals court to dismiss that lawsuit. If a person is in the middle of selecting a jury, if they have had motions and arguments about whether the conduct of the manufacturer or seller or dealer has been outrageous, this legislation would require that that lawsuit be dismissed. I think that retroactivity is unconstitutional, and if it is not unconstitutional, it is certainly unfair, unwise and unwarranted.

The fifth point I want to make about this legislation is that it is politically motivated reform. The reason this bill had not gotten any attention in the Committee on the Judiciary and that nobody wants to take the time to really debate about it on the floor is that we are rushing this bill through to the other side so that 2 weeks from now, when the National Rifle Association convenes its national convention in Florida, they will be energized, they will be motivated to do whatever they need to do to support many of the supporters of this bill. There is no reason that this bill has to be dealt with in the form that it is being dealt with.

So it is extreme. It is unprecedented. It is not well thought out, has not been debated. It is unconstitutional and if not unconstitutional, certainly unfair and unwise, and it is politically motivated.

Those five things should give us pause today, even aside from how this bill got here. We should be concerned that this institution is moving an irresponsible piece of legislation that is solely for the benefit of some right-wing agenda.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank the distinguished chairman of the Committee on the Judiciary for his help in bringing this bill to the floor. I also want to thank my colleagues, the gentleman from Louisiana (Mr. JOHN), the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Virginia (Mr. BOUCHER) for their support.

H.R. 1036, the Protection of Lawful Commerce in Arms Act, as we pointed out earlier, addresses the growing concerns of junk lawsuits filed with the intention of driving the firearms industry out of business by simply attempting to hold manufacturers and dealers liable for the criminal acts of third parties who are totally beyond their control.

These suits are different from other lawsuits that affect other industries. The cities and counties are not representing specific victims nor are they claiming specific damage against city property. No, instead, they are simply suing because they happen to dislike a product, its appearance, its distribution and how it markets its product. Yet, under the Constitution, these companies have the constitutional right to manufacture these products.

□ 1145

Now, the previous speaker mentioned that this has been a very quick process and he thought it was extreme. That is the word he used, extreme, unprecedented. I have on this chart here 31 States which have already passed legislation that prohibits frivolous lawsuits against the firearm industry. So I would say to my colleagues, perhaps your State, when you come on the House floor, you should look at this chart to make sure before you vote whether your State has already passed a bill that has recognized the absurdity of these lawsuits. As such these States have acted to prohibit these types of suits, and H.R. 1036 is designed to simply mirror what the States have done.

The goal is to seize the attempts at regulation through lawsuits that achieve nothing except the blatant interference in a company's constitutional right to sell and market a legal product and the constitutional duty of the Congress to regulate the commerce of such product. As I stated, creative legal theory does not make good public policy.

We have seen through the course of these 30-plus suits that have come to the courts that the courts are not buying the theory either. Many of these suits have been dismissed. If my colleagues will bear with me, I will show my colleagues another chart. I have just taken a sample of the municipal lawsuits that have been dismissed, but I particularly want to highlight the city of Boston's case. Twenty-nine manufacturers and distributors and three associations were defendants. The alleged claim: negligent distribution. Very simply, negligent distribution was the claim against them, and 29 manufacturers were sued, distributors and associations. Defective design, deceptive advertising, nuisance, unjust enrichment. It was dismissed.

The city dropped its own suit saying it was too expensive for the city to do and acknowledging that, through its vigorous prosecution, the suit would need hundreds of thousands of pages of documents, would go on forever and ever, and would not be realistic and concrete in its steps to reduce illegal acquisition of firearms, and need to reduce the incidence of firearm accidents and increasing public awareness concerning the safe handling and storage of firearms. So the city of Boston voluntarily decided this is wrong. Not the courts' decision, but the city of Boston, after spending all this money.

We can go from New Orleans to Miami-Dade County. Twenty-six manufacturers, distributors, three associations, and two dealers were all sued simply because of their design, their distribution, and what they said was negligent deceptive advertising. It was dismissed at trial court and dismissed at appellate court. The Florida Supreme Court denied this petition. So it went through every one. The trial court, the appellate court, and the Supreme Court; and they all denied. So, my colleagues, this bill we have here is simply mirroring what has been done in the other 31 States.

Now, the question comes up, this bill is just a carve-out for the firearms industry. The previous speaker mentioned that, so I would like to bring to his attention other Federal legislation that protects specific industries and other cases where these industries or groups have found themselves uniquely threatened by bizarre or novel legal situations.

For example, in 1994, we passed legislation, the General Aviation Revitalization Act, which generally protects manufacturers of small planes more than 18 years old against personal injury lawsuits in both Federal and State courts.

Let us take another act, the Federally Supported Health Centers Assistance Act of 1995, which declared certain community, migrant and homeless health care center employees to be employees of the Public Health Service, thus protecting them under the Federal Tort Claims Act from malpractice lawsuits in State courts.

Another example: the Bill Emerson Good Samaritan Food Donation Act of 1996, which protects nonprofit organizations from State or Federal lawsuits arising from the nature, age, packaging or condition of apparently wholesome food received in good-faith donation to benefit the needy.

The Volunteer Protection Act of 1997 provides limited immunity from liability for volunteers acting on behalf of a nonprofit organization and preempts inconsistent State law unless such law provides additional protection.

The Biomaterials Access Assurance Act of 1998, which supersedes State law to create an exclusion from liability for manufacturers of raw materials or components of medical implants.

And let us not forget the Y2K Act of 1999, which limits punitive damages and establishes special procedures for liability in Y2K cases.

The Public Health Improvement Act of 2000, which provides Good Samaritan liability protection for users of cardiac defibrillators.

So, my colleagues, there are literally dozens and dozens of such pieces of legislation, major pieces of legislation, very similar, very like this bill that have been passed by Congress to protect and to enforce protection against nuisance lawsuits.

Basically, what we have is a bill that has been cosponsored by 250 colleagues here in the House. And the bill did not just happen to appear recently for anything like a convention of the NRA. This bill has gone through Congress. In

the 107th Congress, we had almost 240 sponsors. It went through the Subcommittee on Commerce, Trade, and Consumer Protection and then the full committee and passed. It went through the appropriate subcommittee and the full Committee on the Judiciary in the 107th Congress. And we now have even more support for it, so the time is right for passage on the House floor.

My colleagues will hear a lot about victims' rights from opponents to this bill. I want to emphatically state that this bill protects victims' rights. Their right to sue is protected in this bill, relying on product defect, negligent entrustment, and industry compliance with Federal and State law. What is not protected is the use of creative legal theory to sue the deepest pockets.

My colleagues, we have a good bill here, one that 250 Members of Congress agree with. It is bipartisan, both sides. They agree that using the courts to circumvent the constitutional authority of this body to make public policy is an improper use of our judicial system.

I will close in a moment, but want to leave my colleagues with several quotes. Dave Kopel, a professor at New York University Law School, has stated that the cities do not have to win in court with these nuisance suits. All they have to do is keep suing and suing. They will kill the industry with the cost of defending the lawsuits. He has got it right.

And then I would like to give another quote here. This is from a former labor secretary in which he pointed out that if I had my way, we would have laws restricting hand guns, and we are launching here an effort to succeed where legislation has failed. The strategy may work, but at the cost of making our frail democracy even weaker. You might approve the outcome in these cases, but they establish a precedent for other cases that you might find wildly unjust.

My point is that most nuisance lawsuits are taking to the courts an attempt to bankrupt these manufacturers. It is clear the courts agree, it is clear my colleagues agree, it is clear the State legislatures agree; and so I urge my colleagues to support the bill.

Mr. WATT. Mr. Chairman, I yield myself 30 seconds, just long enough to respond to the gentleman that I am glad he demonstrated the court process is working. Most of the cases he talked about have been dismissed if they did not have merit, and that is exactly what should happen to them. And to distinguish for him between all of those cases, I know he would like to put this bill in the category of volunteer protections and Good Samaritans, but I do not think he is going to succeed on that front.

Mr. Chairman, I yield 3¼ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, this legislation is an attempt to provide special legal protection for the gun industry at the expense of innocent Americans who have been harmed by the dangerous and irresponsible actions of some firearm manufacturers and sellers.

The gun industry should be subject to the same legal standards of conduct that govern all other people and industries in society. Guns are only one of two consumer products, tobacco is the other, that are exempt from Federal health and safety regulation. Consequently, American consumers receive Federal protection from safety flaws in products such as children's toys, pillows, car seats, but not from deadly firearms.

This legislation is especially unconscionable in light of the gun violence that continues to plague our Nation. Recently, Americans watched in horror as citizens were gunned down by a sniper in Maryland, the District of Columbia, and my home State of Virginia. While local law enforcement officials are prosecuting the snipers for their crimes, the families who lost loved ones in the attack have also filed civil lawsuits to ensure that those responsible for arming the snipers also are held accountable. This includes the gun store from which the assault rifle used in the shootings mysteriously disappeared, along with 238 other guns over the last 3 years alone. These are guns whose intended purpose is to kill other human beings.

If H.R. 1036 is enacted into law, the families of the sniper victims will be thrown out of court without a hearing. Given the suffering experienced by gun violence victims, it is unconscionable for the gun lobby to call their efforts to obtain justice frivolous. Gun violence victims seeking their day in court have based their lawsuits on long-standing rights well established in our Nation's common law.

In addition to the civil lawsuits brought by the families of the sniper victims, another part of the fight to obtain justice for gun violence victims includes the NAACP's current legal action against firearms manufacturers and dealers who have facilitated the supply of hand guns to an unlawful underground market. Gun violence is the number one killer of African Americans ages 15 to 24. And though African Americans represent 13 percent of the total U.S. population, they account for the majority of gun homicides. The legal remedy being sought by the NAACP does not involve damages, but rather calls on the gun industry to behave responsibly.

In the words of a New York Times editorial, ''Under cover of war, the domestic gun industry is prodding Congress to anoint it as the ''arsenal of democracy'' by enacting a disastrous bill to give gun makers and dealers unprecedented protection from liability suits by State and local governments and victims of gun violence.

''The passage of this bill would do nothing for average gun owners. What the sudden pressure to get it through Congress makes clear is that the gun lobby, while theoretically concerned with the right to bear arms, is chiefly worried about protecting the right to make money off of them.''

We, the representatives of the people, not the special interests, should reject this legislation which would undermine the legal rights of individuals and communities and provide unwarranted special immunity for the firearm industry. Let us do the right thing. Let us vote this bill down.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER) to show the bipartisan nature of the support for this bill.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time. I urge passage of this legislation by the House, and I am pleased to join with the gentleman from Florida (Mr. STEARNS), the gentleman from Louisiana (Mr. JOHN), and the gentlewoman from Pennsylvania (Ms. HART) as one of the principal cosponsors of the measure.

Lawsuits which would impose liability on firearm manufacturers, distributors and dealers for misuse of the firearm by someone who comes into possession of it are thinly veiled attempts to impose gun control by judicial means. If liability is imposed on manufacturers in these circumstances, the result will be a large reduction in the availability of firearms for purchase by sportsmen and other law-abiding citizens. The rights of hunters, of gun collectors, and those who purchase firearms for self-defense must be considered. The lawsuits which this bill seeks to end leave little room for the consideration of those rights.

The lawsuits are merely gun control by a nonlegislative means. I happen to oppose gun control, but even if I favored it, I would be for this bill which will remove gun control policy-making from the courts and return it to the legislative arena where it belongs and where all competing interests have an opportunity to be considered.

Mr. Chairman, this bill deserves, and it has, broad bipartisan support. It will further the protection of gun-owner rights, and I urge its passage by the House.

Mr. WATT. Mr. Chairman, I yield 4¼ minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Chairman, I would like to straighten a few things that are being said here on the floor: Number one, this has nothing to do with guns, and it does not; number two, we are not trying to shut down gun manufacturers, and we are not; number three, this is not about gun control, and it is not.

What this is basically about is trying to have, as victims, our day in court.

My colleague said that we have frivolous cases in court. Yet it is funny because we always get into the case, yet we are turned back because they say, go to the legislative branch. The legislative branch is where you should be trying to change law. That is not going to happen. This is a progun House and it is a progun Senate. Now we are basically taking away every right that victims have.

Let me say why we look at the gun manufacturers on their distribution: mainly because we do know that a lot of these illegal guns that get on the streets come from certain areas and are going through certain distributions to gun stores. Yet the legislature here passed a law that our ATF agents cannot even go and inspect a gun store except once a year, but only if they call them first.

What we hear is also, in my opinion, a reckless attempt at providing special legal protection for the gun industry. We do not do it with other manufacturers. This is different. The gun industry should be subject to the same legal standards of conduct that govern every other industry. What makes this particular industry so special, we all know that it is the lobbyists.

But let me say what we are trying to do as far as the gun manufacturers. We are asking them to make the guns safer. The technology is out there. I asked the Committee on Rules last night to have child safety locks able to be sent out with every gun that goes out on the market. It certainly would be up to the consumer whether they used that particular product on the gun or not, but we do know it would save children's lives.

An attempt to improve the bill, as I said, we see unintentional shootings commonly occur with children when they find an adult-loaded handgun in a drawer or closet, and while playing with it shoot themselves, a sibling or young friend. When reading the newspapers, one sees that this happens all too frequently. No matter how careful parents are, their child is still exposed to the potential negligence of a neighbor or relative or other adult that the child visits.

Instead of providing immunity to a particular industry because of the potential legal costs associated with a lawsuit, we should first focus on the merits of the lawsuit. Many negligent suits brought against gun manufacturers are based on the claim that the product they manufacture and sell does not take into consideration the foreseeable dangers associated with their product, for example, a child playing with a handgun.

Although I happen to agree with these claims, I believe we could limit them by ensuring the safety of a firearm if it falls into the hands of a child. There are many things our gun manufacturers could do. There are many things that have already been done against car dealers, against barbecue pits, all in the name of safety, all for the safety of our American people.

When the gun manufacturers start really taking seriously where their guns are going, when the gun manufacturers start looking at the technology that is out there to save lives, when the gun manufacturers really start listening to, hopefully, the consumers and not the NRA. And by the way, I do not think there is anybody in this Chamber, right or left, that is trying to take away the right of someone to own a gun.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JOHN) to show the continued bipartisan support for this bill.

Mr. JOHN. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 1036. As an original cosponsor of this piece of legislation, I also thank the gentleman from Florida (Mr. STEARNS) for his vision and leadership in introducing this piece of legislation and allowing me to be part of the passage of this legislation through committee and now here on the floor.

Mr. Chairman, frivolous lawsuits against gun manufacturers jeopardize a legitimate, legal, and I underscore and repeat, legal industry which is worth billions of dollars to our national economy. I cannot in good conscience support any of these actions.

Being from Louisiana, officially known as the sportsmen's paradise, and I am an avid hunter and fisherman in a region that depends heavily on the sporting industry, I can easily see the potential that these lawsuits have to seriously restrict not only our freedoms but our constitutional rights. Not only would continued frivolous lawsuits against gun manufacturers threaten the firearm industry, but it would have an enormous impact on many other businesses that are dependent on this industry. These lawsuits could have serious negative economic impact on the various hunting and sportsmen-related industries which depend on safe, reliable gun manufacturing.

However, of even more concern to me is the possibility that if we continue to allow municipalities across our country to file these suits against lawful gun manufacturers, we risk restricting freedoms of something very dear to me, and that is rural America where the use of firearms is a very important and integral part of our life-style and our livelihoods. Rather than acting as a deterrent, as many of the opponents of this legislation consider irresponsible, lawsuits such as these will take money away from beneficial programs and safety programs.

The firearms industry has committed millions of dollars to the safe, legal and responsible sale and use of their product. Millions of dollars are spent each year by this industry to promote numerous preventive safety designs and educational programs that promote safe handling of firearms. I would hate to see the funding for these programs wasted, defending these needless lawsuits that in all probability will be thrown out and dismissed in our Nation's court systems.

In response to these attacks on our Nation's firearms industry, many States, including Louisiana, have enacted laws. I urge Members to go along with 31 of the other States that have presented laws that have thrown out these lawsuits and urge support of H.R. 1036.

Mr. WATT. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks.)

Mr. SCOTT of Virginia. Mr. Chairman, the bill has a number of technical problems which we have already heard discussed, including one for which I will have an amendment later in the debate. But the point I want to make here is, on page 3 of the bill, under findings, the findings have as the number one finding, citizens have a right protected by the second amendment to the United States Constitution to keep and bear arms.

It is interesting that the word is ''citizens,'' plural, not an individual has a right. Just so there is no confusion, I think it is important to get the record straight on what the second amendment says, particularly in light of the fact that the supporters of the bill on numerous occasions in committee hearings have been unable to cite a single final judgment which supports the idea that an individual has the right to bear arms under the second amendment.

This goes back to the United States v. Miller case in 1939, where the court held that for the proposition, in the beginning of the second amendment, mentioning well-regulated militia. It says that the possession of a weapon must be reasonably related to a well-regulated militia. The circuit courts have ruled on this.

The First Circuit held that the second amendment applies only to firearms having a ''reasonable relationship to the preservation or efficiency of a well-regulated militia.'' That is a 1939 case.

In 1996, in the Third Circuit, defendant's possession of machine guns did not have a connection with militia-related activity required for second amendment protections to apply.

The Fourth Circuit, a 1995 case, stated that courts have consistently held that the second amendment only confers a collective right of keeping and bearing arms which bear a reasonable relationship to the preservation or efficiency of a well-regulated militia.

The Sixth Circuit, in 2000, held that the lower courts have uniformly held that the second amendment preserves a collective rather than an individual right.

The Seventh Circuit, the second amendment establishes no right to possess a firearm apart from the role possession of the gun might play in maintaining a State militia. That is a 1999 case.

The Eighth Circuit stated that the purpose of the second amendment is to restrain the Federal Government from regulating the possession of arms where such regulation would interfere with the preservation or efficiency of the militia. That is a 1992 case.

The Ninth Circuit in 2002 stated that it is this collective rights model which provides the best interpretation of the second amendment.

The Tenth Circuit, a 1977 case, to apply the amendment so as to guarantee an appellant's right to keep an unregistered firearm which has not been shown to have any connection with the militia, merely because he is technically a member of the Kansas militia, would be unjustifiable in terms of either logic or policy.

The Eleventh Circuit, a 1997 case concerning motivating the creation of the second amendment, convinces us that the amendment was intended to protect only the use or protection of weapons reasonably related to a militia actively maintained and trained by the States.

I want the RECORD to reflect, in case someone has read the second amendment, that our record is replete with what the second amendment means.

[From the Legal Action Project]

A SAMPLING OF COURT DECISIONS THAT SUPPORT THE MILITIA INTERPRETATION OF THE SECOND AMENDMENT

U.S. SUPREME COURT

U.S. v. Miller, 307 U.S. 174 (1939).

Lewis v. United States, 445 U.S. 55 (1980).

U.S. COURTS OF APPEALS

U.S. v. Wright, 117 F.3d 1265 (11th Cir.), *cert. denied,* 522 U.S. 1007 (1997).

U.S. v. Baer, 235 F.2d 561 (10th Cir. 2000)

U.S. v. Oakes, 564 F.2d 384 (10th Cir. 1977), *cert. denied,* 435 U.S. 926 (1978).

U.S. v. Swinton, 521 F.2d 1255 (10th Cir. 1975), *cert. denied,* 424 U.S. 918 (1976).

U.S. v. Hancock, 231 F.3d 557 (9th Cir. 2000), *cert. denied,* 121 S. Ct. 1641 (2001).

U.S. v. Finitz, 234 F.3d 1278 (9th Cir. 2000), *cert. denied,* 121 S. Ct. 833 (2001).

Hickman v. Block, 81 F.3d 98 (9th Cir.), *Cert. denied,* 519 U.S. 912 (1996).

U.S. v. Lewis, 236 F.3d 948 (8th Cir. 2001).

U.S. v. Farrell, 69 F.3d 891 (8th Cir. 1995).

U.S. v. Hale, 978 F.2d 1016 (8th Cir.), *Cert. denied,* 507 U.S. 997 (1993).

U.S. v. Nelson, 859 F.2d 1318 (8th Cir. 1988).

Cody v. U.S., 460 F.2d 164 (8th Cir.), *cert. denied,* 409 U.S. 1010 (1972).

U.S. v. Decker, 446 F.2d 164 (8th Cir. 1971).

U.S. v. Synnes, 438 F.2d 764 (8th Cir. 1971), *vacated on other grounds,* 404 U.S. 1009 (1972).

Gillespie v. City of Indianapolis, 185 F.3d 693 (7th Cir. 1999), *cert. denied,* 528 U.S. 1116 (2000).

Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982), *cert. denied,* 464 U.S. 863 (1983).

U.S. v. McCutcheon, 446 F.2d 133 (7th Cir. 1971).

U.S. v. Napier, 233 F.3d 394 (6th Cir. 2000).

U.S. v. Warin, 530 F.2d 103 (6th Cir.), *cert. denied,* 426 U.S. 948 (1976).

U.S. v. Day, 476 F.2d 562 (6th Cir. 1973).

Stevens v. U.S., 440 F.2d 144 (6th Cir. 1971).

U.S. v. Johnson, Jr., 441 F.2d 1134 (5th Cir. 1971).

Love v. Pepersack, 47 F.3d 120 (4th Cir.), *cert. denied,* 516 U.S. 813 (1995).

U.S. v. Johnson, 497 F.2d 548 (4th Cir. 1974).

U.S. v. Rybar, 103 F.3d 273 (3rd Cir. 1996), *cert. denied,* 522 U.S. 807 (1997).

U.S. v. Graves, 554 F.2d 65 (3rd Cir. 1977).

Eckert v. City of Philadelphia, 477 F.2d 610 (3rd Cir.), *cert. denied,* 414 U.S. 839 (1973).

U.S. v. Tot, 131 F.2d 261 (3rd Cir. 1942), *rev'd on other grounds,* 319 U.S. 463 (1943).

U.S. v. Toner, 728 F.2d 115 (2d Cir. 1984).

U.S. v. Friel, 1 F.3d 1231 (1st Cir. 1993).

Thomas v. City Council of Portland, 730 F.2d 41 (1st Cir. 1984).

U.S. v. Cases, 131 F.2d 916 (1st Cir. 1942), *cert. denied sub nom.*

Velaquez v. U.S., 319 U.S. 770 (1943).

U.S. FEDERAL DISTRICT COURTS

Golt v. City of Signal Hall, 132 F. Supp. 2d 1271 (C.D. Cal. 2001).

Olympic Arms v. Magaw, 91 F. Supp. 2d 1061 (E.D. Mich. 2000).

U.S. v. Willbern, 2000 WL 554134 (D. Kan. Apr. 12, 2000).

U.S. v. Bournes, 105 F. Supp. 2d 736 (E.D. Mich. 2000).

U.S. v. Boyd, 52 F. Supp. 2d 1233 (D. Kan. 1999), *aff'd,* 211 F.3d 1279 (10th Cir. 2000).

U.S. v. Henson, 55 F. Supp. 2d 528 (S.D. W. Va. 1999).

U.S. v. Visnich, 65 F. Supp. 2d 669 (N.D. Ohio 1999).

U.S. v. Caron, 941 F. Supp. 2d 238 (D. Mass. 1996).

Mascowitz v. Brown, 850 F. Supp. 1185 (S.D.N.Y. 1994).

U.S. v. Kruckel, 1993 WL 765648 (D.N.J. Aug. 13, 1993).

Krisko v. Oswald, 655 F. Supp. 147 (E.D. Pa. 1987).

U.S. v. Kozerski, 518 F. Supp. 1082 (D.N.H. 1981), *cert. denied,* 496 U.S. 842 (1984).

Vietmanese Fishermen's Association v. KKK, 543 F. Supp. 198 (S.D. Tex. 1982).

Thompson v. Dereta, 549 F. Supp. 297 (D. Utah 1982).

U.S. v. Kraase, 340 F. Supp. 147 (E.D. Wis. 1972).

U.S. v. Gross, 313 F. Supp. 1330. (S.D. Ind. 1970), *aff'd on other grounds,* 451 F.2d 1355 (7th Cir. 1971).

STATE COURTS

Arnold v. Cleveland, 616 N.E.2d 163 (Ohio 1993).

State v. Fennell, 382 S.E.2d 231 (N.C. 1989).

U.S. v. Sandidge, 520 A.2d 1057 (D.C.), *cert. denied,* 108 S. Ct. 193 (1987).

Kalodimos v. Village of Morton Grove, 470 N.E.2d 266 (III. 1984).

Masters v. State, 653 S.W.2d 944 (Tex.App. 1983).

City of East Cleveland v. Scales, 460 N.E.2d 1126 (Ohio App. 1983).

State v. Vlacil, 645 P.2d 677 (Utah 1982).

In Re Atkinson, 291 N.W.2d 396 (Minn. 1980).

State v. Rupp, 282 N.W.2d 125 (Iowa 1979).

Commonwealth v. Davis, 343 N.E.2d 847 (Mass. 1976).

Burton v. Sills, 248 A.2d 521 (N.J. 1968), *appeal dismissed,* 394 U.S. 812 (1969).

Harris v. State, 432 P.2d 929 (Nev. 1967).

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan (Mrs. MILLER).

□ 1215

Mrs. MILLER of Michigan. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, our Nation's Founding Fathers, in their wisdom, guaranteed the people of America the fundamental right to keep and to bear arms in the second amendment of our Constitution. This right allows Americans to keep and own firearms for the protection of themselves, their families, and their property. This right has helped to guarantee freedom for every American citizen for over 214 years. Unfortunately, there are many people in our Nation who will do anything to destroy this freedom; and as a Member of Congress, I am fighting to uphold this basic right.

Opponents of the second amendment have tried for years to pass laws to restrict the people's access to firearms. In that effort they have been successful in making the firearms industry one of the most regulated industries in America, but that is not enough for the antifirearm fanatics. Now they are attempting to sue domestic manufacturers of firearms with the express purpose of putting them out of business; and if these efforts are successful, not only would it destroy jobs and companies that produce a product that the Constitution itself protects our citizens' right to own, they would do serious damage to our homeland and our national security.

Currently there are lawsuits attempting to punish companies that make firearms because of the actions of criminals. These lawsuits threaten the viability of these firms; and if successful, they would not keep firearms out of the hands of criminals, but they would potentially keep them out of the hands of those who protect our freedom. Take, for instance, the Colt Company, which is the target of one of these lawsuits. This company not only produces small arms, but it is also the sole provider of the M–16 rifle that is being used so ably by our troops in Operation Iraqi Freedom and by our soldiers fighting the war on terror worldwide. If this company is destroyed, where will our soldiers get the arms that they need to protect our freedoms? From France? From Germany?

What about the Beretta USA Company, another target of these lawsuits? This company supplies the standard sidearm for all branches of the Armed Forces and provides firearms to countless law enforcement agencies across our Nation. If this company is destroyed, where will soldiers and law enforcement officers get the arms to protect our freedom and to keep our streets safe?

Take the Sig Arms Company, another target of these lawsuits. This company makes a sidearm of choice carried by the men and women who protect the President of the United States, as well as the official sidearm of the Navy SEALS.

The aim of such suits is clear, to destroy our American firearms industry, in a blatant attempt to deny law-abiding citizens access to firearms and to stop them from exercising their constitutional right to keep and to bear arms. Not only are the rights of American citizens at stake but so is our national security. The men and women in

the armed services and the men and women in law enforcement need to have the best possible firearms to protect our freedom, to defeat terrorists, and to safeguard our streets. We must protect freedom. I urge my colleagues to support this important legislation.

Mr. WATT. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I am genuinely concerned about our justice system in this country, both civilly and criminally. This bill is but the latest in a series of assaults by this Congress on the right of the people to apply to the courts to seek redress for their grievances. And it is also but the latest in a series of assaults on the right of the States to provide remedies under the law for the wrongs done to their citizens. If we continue, Mr. Chairman, we will have a justice system that is available only for business litigation. That is the direction in which we are going.

What situation, what emergency would have prompted the sponsors of this bill to deny victims their remedies? According to the findings in this bill, the emergency is ''lawsuits have been commenced'' against the gun industry. I am not kidding. The reason given is that lawsuits have been commenced. One wonders what other industry would have the clout, let alone the audacity, to come to Congress and seek blanket immunity from the consequences of their misbehavior because lawsuits have been commenced against it.

Lawsuits are commenced every day. Most of them never reach a jury. Sure enough, when I asked the industry witness how many of these lawsuits had actually resulted in a jury verdict awarding damages against the industry, he could come up with only one case in which a verdict had been returned, one case; and then it turned out upon further questioning that even that one award had been reversed on appeal. The truth is that this legislation will continue to erode our justice system as well as the 10th amendment. I cannot believe that this body continues to allow the rights of the individual States to be encroached on by the Federal Government. Whatever happened to devolution? Whatever happened to the 10th amendment?

The State courts have been doing their job well. There has been no rash of questionable verdicts, no epidemic of excessive jury awards. In fact, the proponents have been unable to point to a single final judgment in any court in this country that supports the rationale for this legislation, not one. So, please, let us hear no more about lawsuits that have been commenced. Let them ask for immunity when the courts actually start holding them accountable for their negligence. That is when the proponents of this bill should come back to this Congress.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of H.R. 1036, the Protection of Lawful Commerce in Arms Act. The purpose and intent of this bill are simple. Legal manufacturers of legal products that are sold legally and purchased legally and used legally should not be held liable for the subsequent illegal misuse of their products somewhere far down the chain. Our Nation's firearm manufacturers have been providing high-paying, stable jobs for generations and have become part of the American tradition. They are supplying our Nation's hunters and target shooters and other sports enthusiasts with quality products which, once again, are legally manufactured, legally sold, legally purchased, and legally used for legal activities.

My district is home to three such manufacturers, Remington Arms, the Ithaca Gun Company and Dan Wesson Firearms. Founded in 1816, Remington Arms has been a faithful supplier of quality firearms to this country in times of conflict and war and has been a leader in the commercial market for sporting arms and ammunition and accessories. For over 187 years, the company has set the standard for safe and responsible use of firearms.

The Ithaca Gun Company was founded in 1880, and it too has a proud and rich history. Today with the fast pace and rush-rush mode that is evident in just about everything, it is refreshing to know that every Ithaca gun is still finished and assembled in the same way as it was over 100 years ago, by the hands of a skilled Ithaca gun maker.

Dan Wesson Firearms, located in Norwich, New York was founded back in 1968 by the great grandson of D.B. Wesson, co-founder of Smith & Wesson. They too place an enormous amount of skill and craftsmanship into each firearm they manufacture.

Remington Arms, Ithaca Gun Company and Dan Wesson Firearms are three classic examples of responsible American companies that take pride in producing quality products while at the same time employing thousands of American men and women, and I am proud to have them located in my district.

It is time we put a stop to frivolous lawsuits against our Nation's responsible gun manufacturers. Those frivolous lawsuits not only cost manufacturers dearly in terms of what should be unnecessary legal costs, but they also cost America's sportsmen dearly in terms of the added charge which has to be built into the price of every firearm for those same unnecessary legal costs.

Support our responsible firearm manufacturers and our honest law-abiding sportsmen, and join me in support of this measure.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, to the gentlewoman from Michigan, I need to respond because no one is suggesting in this body today that we change the right to bear arms, and to suggest that those who oppose this legislation are aiding criminals and terrorists and hurting our Armed Forces and uniformed law enforcement is incredible pap. That is what it is; and as a vet, I resent it.

Those who profit from the sale of guns have the ultimate responsibility to safeguard the American public by ensuring that their weapons do not get into the wrong hands, but we all know that this is often not the case. We have all heard on far too many occasions stories of dealer negligence that results in tragic consequences.

Take the case of David Lemongello. David is a graduate of Bloomfield High School in my district, had his career as a police detective, his lifelong dream, cut short from the injuries he sustained at the hands of a career criminal with a gun. And where did the gun that shot David three times come from? How did a criminal get his hands on the gun that ended David's career? It was thanks in large part to an irresponsible gun dealer. The criminal got it from a gun trafficker who bought it along with 11 other handguns from a West Virginia gun dealer.

Do my colleagues not think that if someone comes into a gun shop with thousands of dollars and purchases a dozen handguns that an automatic red flag should go up? Do my colleagues not think that there should be some accountability when gun dealers do not take even the minimum amount of oversight? Is there anyone here willing to tell David Lemongello to his face that he does not have the right to hold this irresponsible gun dealer accountable for the pain and the anguish he has suffered? Who here will tell David Lemongello that he does not deserve his day in court?

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Protection of Lawful Commerce in Arms Act. If I had listened to the opposition on this and we had followed that path of logic, then auto dealers would be next. Lawful commerce in anything, where there are far more accidents and far more injuries with automobiles, I cannot disconnect the logic between the lawful manufacturers of firearms. But the goal of this reckless law is to financially destroy the firearms industry by filing countless meritless lawsuits. These suits are based on the absurd legal theory that gun manufacturers and dealers should be held responsible for the acts of violent criminals who use safe, nondefective firearms to commit violent crimes.

Although losses in court continue to mount for lawyers who bring these baseless suits, the firearms industry is still saddled with the cost of defending them in court. We should be outraged that certain lawyers and gun-ban advocates feel that they can circumvent the legislative process by moving their anti-second amendment efforts into the courts.

I am a stalwart defender of our second amendment freedoms. They are guaranteed to us by the Constitution, and I oppose any attempt to water down the principles embodied in the second amendment. The first and most important reason for the second amendment as intended by our Founding Fathers was to provide a deterrent for tyrants.

□ 1230

The right to keep and bear arms was meant to ensure that citizens can defend our democratic republic from despots and those who seek to take away our rights and free society.

Today, lawsuits against the firearms industry threaten to drive it out of business. These businesses are vital to our national interest. They supply our troops with weapons that they use in the war in Iraq. Our homeland law enforcement officers also need the weapons manufactured by these companies to defend us against terror and protect our homeland. If we allow frivolous lawsuits to bankrupt the industry, we are only hurting ourselves, both at home and abroad.

Mr. WATT. Mr. Chairman I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL).

(Mr. EMANUEL asked and was given permission to revise and extend his remarks.)

Mr. EMANUEL. Mr. Chairman, I rise in strong opposition to H.R. 1036, the Gun Manufacturer's Liability Reform Act. Shielding gun makers, dealers and distributors from liability and dismissing all pending lawsuits is the most egregious form of corporate welfare I have yet to see. This is special treatment for a special interest. The gun industry would become the envy of every industry. It is a back-handed insult to tens of thousands of victims of gun violence each year.

Let us apply the Firestone tire test. We should all agree that those who have been in accidents caused by Firestone tires have the right to their day in court. If Firestone had provisions similar to H.R. 1036, Americans whose families were either killed or injured would lose their right and there would be no recourse.

On July 3, 1999, 43-year-old Ricky Byrdsong, basketball coach for Northwestern University in Evanston, Illinois, was out walking with his children. During his walk, he was shot and killed with a gun which was illegally purchased from a dealer who probably should have known better than to sell the weapon.

The family of Ricky Byrdsong, the coach, is currently suing. This bill on this floor today would automatically dismiss that suit without so much as a trial. I do not know if the dealer is liable in this case, but that is not my decision to decide, nor is it the people of this body's decision to decide.

Mr. Chairman, this bill denies Americans one of their most basic rights. I understand that the issue of gun violence is a contentious one, but I think we can all agree that this body should work to protect our citizens, not the Washington gun lobby. This is special protection for a very special interest.

This is a bad bill, which sets a dangerous precedent, and I strongly urge my colleagues on both sides, people of good values and good principles, to vote against this legislation.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in strong opposition to H.R. 1036. By protecting an industry from liability, we eliminate a major incentive for it to operate in a safer way, and ultimately we make people and corporations less accountable for questionable manufacturing and sales practices.

As an individual who was paralyzed at the age of 16 when a police officer's gun accidentally discharged and severed my spinal cord, I know how a person's life may be changed by gun violence or accidents.

Our society frequently witnesses the needless misfortunes that can take place due to firearm mishandling, and we should strive to make our society safer. Yet this bill would move us away from that goal. Too many people who suffer from gun violence and accidents are victims of an industry that fights every effort to improve the safety of its products, including the installation of chamber load indicators and trigger locks, features that could have changed the course of my life.

They are victims of dealers who look the other way as their wares are used for criminal activity, and gun control laws that are not sufficiently enforced. Supporters of the bill claim that it has exemptions to permit lawsuits in the case of clear knowledge of criminal activity or negligence. But they will not mention that the exemptions are so narrowly worded that they are meaningless.

They also make intriguing parallels about how the gun industry is currently being held to a higher standard than other industries, while not recognizing the exemptions from Federal consumer safety laws that the gun industry enjoys.

I am deeply disappointed that this measure will not do a single thing to prevent gun violence or accidents in the United States. However, I am even more disturbed that it may exacerbate our existing problem.

Mr. Chairman, I strongly urge my colleagues to vote against H.R. 1036, so that we can demonstrate our commitment to a safer America.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this.

It is unfortunate that people are willing to accept the astoundingly high rate of gun violence in this country. Every Member of this Chamber knows people who have been touched by needless gun violence, and we are set to accept more damage unless and until we are willing to accept common-sense steps to reduce gun violence that will save lives. The step that my colleague from Rhode Island just mentioned will not interfere with anybody's right to hunt, will not interfere with the manufacture; it simply extends the simple common-sense consumer protection that we accept for toy guns to real guns. It is not rocket science, it is not a lack of compassion, it is just simply doing the right thing.

I believe we will live to see the day when we stop the dark side of gun trafficking in this country, when we extend simple common-sense consumer protections, when we have the courage in this Chamber to fund adequate enforcement of the gun laws that we have. But, until that day comes, for God's sake, do not make the situation worse.

Extending protections to the gun industry, unnecessary protections, alone, is not going to move us forward. It is a step backward. It reinforces the notion that we are powerless, that all we have to do is pander to the people who make a career out of twisting the second amendment.

Mr. Chairman, I strongly urge that we reject this proposal today and avoid the shameful record that we have with unnecessary gun laws that lose lives and shatter families.

Mr. WATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank all Members who have participated in the debate. I would just reemphasize the five points that I made at the outset of this debate.

This legislation is extreme. It is unprecedented because it will give gun manufacturers, sellers and dealers immunity that no other industry has in America. It is not well thought out, because it has not gone through the process in a proper way and had amendments put on it. It is unconstitutional. Finally, it is politically motivated.

Mr. Chairman, I urge my colleagues to vote against this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the proponents of this bill have stated time and time again that courts have determined that those who file lawsuits against the firearms industry are doing so because they want to bankrupt the industry. They want to bankrupt the industry through

legal fees, and even though they might not win their cases in court, there is no reimbursement for the defense costs that have to be run up once a lawsuit is filed.

Now, anybody who uses a firearm for illegal purposes, we should throw the book at. I certainly support what has gone on in Richmond in Project Exile, and I hope we can give the Justice Department enough money to extend Project Exile nationwide. I also strongly support the InstaCheck system that is designed to keep firearms out of the hands of people who have not been lawfully able to possess those firearms for over 70 years, convicted felons, adjudicated mental incompetents and some other people.

But we should not use the judicial process to bankrupt an industry that produces a legal product. If you do not like the product, introduce a bill here to make it illegal. I will vote against it, but at least you can deal with that directly through the democratic process, rather than going through the back door and trying to get the courts to do what legislatures and the Congress have failed to do.

Mr. JOHNSON of Illinois. Mr. Chairman, I would like to express my strong opposition to the words used by Congresswoman CUBIN in reference to an amendment to H.R. 1036 offered by Congressman WATT. While her comments were within the parliamentary rules of the House of Representatives, they were clearly improper and offensive, and had at least the appearance of racial basis. I appreciate Congresswoman CUBIN's subsequent apology, and her statement that her words were incomplete and misinterpreted, but I unequivocally denounce the original statement, and it is my sincere hope that it is not interpreted as indicative of the views and sentiments of this distinguished body.

Mrs. MALONEY. Mr. Chairman, I rise today in opposition to H.R. 1036, The Protection of Lawful Commerce in Arms Act.

The sole intent of this bill is to divert the responsibility of gun manufacturers in ensuring the safe distribution of firearms in our society. Passage of this legislation would cripple the public's ability to seek justice in instances of negligence by these manufacturers.

Why are we exempting the gun industry from liability provisions that we apply to other manufacturers, even the makers of toy guns?

It is in the timing of this bill that the true intent of the Majority becomes evident. This bill was conveniently taken off the schedule during the sniper shootings in the Washington metropolitan area last fall, but now been brought back just in time for the NRA's annual conference.

Every step must be taken to keep these deadly weapons out of criminal hands. We must look past the interests of lobbyists and look deeply at the interests of the American public. If gun manufacturers and dealers are involved with the illegal and irresponsible sales of firearms, then it is essential that those who violate the law are held responsible.

A study conducted by The Department of Justice revealed that 12.7 percent of students age 12 to 19 reported knowing a student who brought a firearm to school. This statistic speaks directly to the need for providing additional safeguards to keep firearms away from children.

We should not be taking up legislation that prevents gun manufacturers from being held accountable. Instead, we should be voting on legislation that will help to prevent gun violence from even occurring.

I urge my colleagues to oppose this legislation.

Mr. TOWNS. Mr. Chairman, I rise in opposition to H.R. 1036. If this bill were to become public law, the gun industry would be granted more liability protection than any other industry in America. I must say that I've heard of throwing bones to constituency bases before, but I might define this as the 96 ounce Peter Lugar's Porterhouse with all the sides included.

The gun industry dumps thousands and thousands of guns onto the streets in municipalities like New York and has never been held responsible for their irresponsible actions. This bill would make it impossible to hold the industry accountable for their actions.

H.R. 1036 would also prohibit future lawsuits and dismiss current liability lawsuits underway against the gun industry. I am particularly concerned about the timing of this bill given the lawsuit filed by the NAACP against the gun industry, which is currently taking place in U.S. District court in Brooklyn. This bill would prohibit that suit from going forward.

Instead of dealing with the real problems that are confronting us such as job security or a prescription drug bill for seniors, the Republican leadership rushed this bill to the House floor before the NRA convention begins in a couple of weeks. This bill should be defeated.

Mr. UDALL of Colorado. Mr. Chairman, I will vote against this bill, because I do not see why it is necessary or desirable for Congress to act now to restrict just one kind of lawsuit, against just one kind of manufacturer.

My reluctance to support such legislation is increased when it not just prospective, but would require the immediate dismissal of cases that are now being considered by the courts.

I am not a lawyer, and it seems to me that the courts are in a much better position than I am to decide whether the people bringing these lawsuits have valid claims or whether the complaints are frivolous.

It happens that this bill deals with lawsuits against firearms manufacturers. But my concerns would be the same if the bill dealt with similar lawsuits against the makers of other consumer products—for example, automobiles, electronic appliances, or toys.

During the debate, some of the bill's supporters have argued that firearms manufacturers are different because there is a Constitutional right to keep and bear arms. But the freedom of the press is also protected by the Constitution—yet I have not heard anyone say that Congress has to cut off lawsuits against the makers of printing presses or television cameras in order to sustain that right.

And, if the lawsuits covered by the bill are contrary to the Constitution, I am confident that the judges—who are sworn to uphold the Constitution—will dismiss them.

There is no doubt lawsuits can be costly, and I am not in favor of frivolous lawsuits. But, based on what I know now, I think we in the Congress should leave it to the courts to decide which of the lawsuits covered by this bill are frivolous and which are not.

Therefore, I cannot support this legislation.

Mr. WAXMAN. Mr. Chairman, I rise in strong opposition to H.R. 1036. This bill is special interest legislation of the worst kind. It would grant extensive immunity from liability to gun manufacturers and gun dealers.

Under current law, gun manufacturers and gun dealers must act responsibly. Like other businesses and individuals, if they act negligently—or if they blatantly disregard the obvious consequences of their actions—they may be held liable.

H.R. 1036 would eviscerate this protection. The bill says to gun manufacturers and gun dealers: go ahead and ignore common sense, disregard the consequences of your actions, and we will let you off the hook. You are no longer responsible for your actions. This special exemption will endanger our citizens and almost certainly cost lives.

Furthermore, this bill is drafted so broad and carelessly that it could extend complete immunity from liability to gun dealers—even if they sell weapons to suspected terrorists.

To resolve that ambiguity, I offered an amendment in the Rules Committee to ensure that gun dealers are held accountable when they sell weapons to people they know or suspect are members of terrorist organizations, or people they know are likely to supply these weapons to terrorist organizations.

But the Rules Committee refused to allow debate on my amendment. This is simply inexplicable. My amendment would clarify that gun dealers who sell to terrorists are not shielded from liability. Are we so captured by the gun industry that we want to immunize the industry from liability even when terrorists are involved?

There is an exemption in the bill that would hold dealers liable if they know or should have known that a buyer would use the weapons to injure himself or others. But what about the more dangerous prospect of a suspicious buyer who is acquiring the weapons to give to someone else in his terrorist organization.

These is an exemption in the bill to preserve civil liability if the dealer is convicted of ''knowingly'' assisting the commission of a violent act. But what about a gun dealer that has a strong suspicion—not definite knowledge—that the weapon is going to end up in the hands of a terrorist organization.

This is precisely the difference between criminal conduct and civil negligence. Our civil liability laws require that people act reasonably, even if there is no criminal penalty. And this is exactly the protection this bill would eliminate.

We are in a war against terrorism. The last thing we should do is immunize gun dealers who traffic with suspected terrorists. Yet that is just what this bill does. It is dangerously shortsighted that the Rules Committee blatantly ignored an opportunity to fix it.

Civil liability should be determined based on a comprehensive review of all the relevant circumstances. But there should be no impregnable shield to liability, because that only encourages careless and reckless behavior. This is wrong, and it is dangerous. That's why this bill must be defeated.

Mr. OTTER. Mr. Chairman, I rise today to address H.R. 1036, the Protection of Lawful Commerce in Arms Act. In light of the concerted efforts by opponents of the Second Amendment to destroy the gun industry through frivolous lawsuits, it has become imperative we provide manufacturers and sellers

of firearms and ammunition protection from these attacks. I find the idea of holding an industry liable for the criminal misuse of their legal products deplorable. Our nation cannot allow the innocent to pay for the dealings of the guilty, or we serve to circumvent the very foundation of the rule of law. Those individuals, not the makers of the means, who commit violent crimes, with or without the use of a firearm, must take personal responsibility for their actions through the restitution and civil penalties affirmed by law.

Without this legislation, further unfounded lawsuits against the gun industry will lead to an encroachment upon our second amendment rights. Congress must work diligently to reduce the level of political rhetoric surrounding gun control, protect the Second Amendment, and promote the role of personal responsibility in society.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to this outrageously irresponsible legislation put forth by the Republican Majority. Giving gun makers, gun dealers, and gun sellers total immunity from product liability doesn't make our streets safer of our neighborhoods any more secure.

The manner in which this bill finds its way to the floor deserves some attention. It is my understanding that the Judiciary Committee Majority developed this legislation in secret, bypassed the subcommittee and prevented the Minority in Full Committee to make any amendments to it—a trend all too familiar.

In the 107th Congress, similar gun liability legislation was introduced, made its way to the House calendar, but didn't get far. The media's focus of the sniper attacks in Washington, DC provoked an outcry of horror as the country watched the violence of guns firsthand. Ironically, that atrocious bill was put on the back burner. It would have illuminated the legislation for what it was, autonomy from product liability for the gun lobby.

So, here we are today to debate the issue in less traumatic times, but the fact remains that this legislation has not changed—it is reckless, pro gun political banter.

Proponents will tout fallacies that H.R. 1036 is considered necessary to weed out frivolous lawsuits, and that this legislation will not outlaw lawsuits brought by injured private citizens. Instead, they say, it would simply prevent the gun industry from being held legally responsible because a criminal misused a gun. In fact, these allegations couldn't be farther from the truth. This bill will immunize the gun industry from most lawsuits brought by anyone—including private citizens and government entities.

Manufacturers for every other consumer product in this country must adhere to strict regulations on product liability. However, my colleagues on the other side of the aisle believe the gun industry should be exempt from criminal and negligent acts.

Conveniently, this bill is being debated just weeks before the National Rifle Association holds its annual meeting. That assures that House Republicans can show up at their conference having passed a priority bill for a huge campaign supporter.

I have been a long time supporter of stricter laws regulating guns in our nation. I also oppose any individual or entity being granted blanket immunity from product liability. I urge my colleagues to vote against this bill that both weakens our gun laws and removes gun manufacturers from liability when their products are used to kill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I oppose H.R. 1036, The Protection of Lawful Commerce In Arms Act.

H.R. 1036 is nothing more than special interest legislation that grants the gun industry legal immunity from the vast majority of civil lawsuits. The bill generally prohibits any action ''brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.''

This is a drastic departure from established principles of liability law, which generally hold that persons and companies may be held liable for the foreseeable consequences of their negligent or wrongful acts, including the foreseeable criminal conduct of others. H.R. 1036 will bar suits against not only gun manufacturers, but also dealers, distributors, and trade associations.

If H.R. 1036 is passed, the well-accepted legal principle that gun manufacturers are liable for failing to include feasible safety devices that prevent injuries caused by foreseeable use or misuse of their products will be wiped out. Likewise, there will be no legal liability for dealers who have negligently sold numerous guns to gun traffickers.

This legislation goes beyond simply holding the gun industry liable because a criminal misuses a gun. This legislation would make the gun industry immune from suits for negligent sales and defective designs. H.R. 1036 immunizes the gun industry from civil lawsuits by both government entities and individual citizens, both of whom would lose their legal rights to civil damages. This could have a profound impact on the victims of gun violence.

At a minimum, the victims of gun violence have the right to have their day in court. It is ludicrous to deny the families of persons killed by negligently or recklessly manufactured or sold guns the right to seek justice in courts of law. H.R. 1036 not only deprives gun violence victims of the chance to bring future lawsuits, it dismisses all qualified pending civil lawsuits against the gun industry in both federal and state courts.

In my home state of Texas, for example, the family of murder victim Raymond Lamb Payne will have their case against a pawn shop called EZ Pawn dismissed. In that case, Raymond Lamb Payne was shot and killed by David Lee Williams. David Lee Williams had been committed to a mental institution and was by law not permitted to purchase a gun. David Lee Williams' brother warned EZ Pawn that David Lee Williams had mental illness, and had threatened to kill people. Despite the warning EZ Pawn negligently sold David Lee Williams a gun. Five days later that same gun was used to murder Raymond Lamb Payne. Under H.R. 1036, EZ Pawn will be immune from liability and the family of Raymond Lamb Payne will have their pending case dismissed.

The gun industry is one of only two industries, along with the tobacco industry, that is exempt from federal safety oversight. Lawsuits are an important tool, the only tool, available to motivate the gun industry to act responsibly, and to engage in reforms that make guns and gun sales safer. Lawsuits against the gun industry are not frivolous, as gun proponents claim. That is clear from the fact that many lawsuits against the gun industry have been successful in court.

If passed without substantial amendment, H.R. 1036 will deny justice to America's gun violence victims. It will grant unfettered power to gun manufacturers to produce unsafe guns. It will enable gun merchants to negligently and recklessly sell their guns to criminals.

I oppose H.R. 1036 as it is presently drafted, and support the Amendments offered by my colleagues.

Mr. VITTER. Mr. Chairman, today I rise in strong support of H.R. 1036, the Protection of Lawful Commerce in Arms Act.

This bill protects licensed manufacturers and sellers of firearms or ammunition from lawsuits based on criminal use by a third party. It's patently absurd—and bad legal theory as well—to allow these sorts of lawsuits to move forward. This legislation today is an important step in stopping it.

Just as importantly, these lawsuits seriously threaten the Second Amendment rights of law-abiding citizens. Time and again those who would curtail firearm rights enshrined in our Constitution have tried to regulate and legislate against our freedoms. The American people rightly have opposed and rejected these misguided efforts. Now the same folks are trying to use the courts and twist the law into achieving their aims. Therefore, this response from Congress is not something done to please any special interests other than the American people and the Bill of Rights.

Thirty-one states have laws that prevent these junk lawsuits, and I am pleased that my home state of Louisiana is one of them. The Federal government should act quickly and I hope that the courts dismiss these junk lawsuits as well.

I commend Congressman STEARNS and the Judiciary Committee for their hard work in producing this legislation, and I strongly urge my colleagues to support this bill.

Mr. CARSON of Oklahoma. Mr. Chairman, I rise in support of H.R. 1036, the Protection of Lawful Commerce in Arms Act.

As my esteemed colleagues have discussed, H.R. 1036 would prohibit civil lawsuits from being brought against gun manufacturers by parties that have been injured by the unlawful use of firearms.

Mr. Chairman, I am a great believer in personal responsibility. It is one of the key principles upon which America was founded. The Protection of Lawful Commerce in Arms Act would strengthen this great notion.

Imposing liability on an entire industry for harm caused solely by the unlawful actions of others is an abuse of the United States legal system—it undermines public confidence in our judicial system and threatens the viability of law-abiding companies.

Frivolous lawsuits against the firearm industry are nothing more than an attack on the Second Amendment. It seems a logical anti-gun tactic to me, if you can't lawfully prevent the sale of guns, then you go after the people who sell guns and make them afraid to sell their lawful products for fear of incurring substantial financial liability. Thus far, these frivolous and merit-less lawsuits have had little success in court. Their only success is in placing an enormous financial burden on gun manufacturers. However, these litigation costs are then passed onto consumers and makes it more difficult law-abiding citizens to own guns. In the end, the ones who suffer the most are law-abiding consumers.

H.R. 1036 would help protect our Second Amendment rights by protecting legitimate

businesses that comply with federal, state and local gun laws. It is time to stop these frivolous lawsuits that threaten to bankrupt a responsible American industry by blaming the firearm industry for the actions of criminals. I urge my colleagues to support the Protection of Lawful Commerce in Arms Act.

Mr. PAUL. Mr. Chairman, I rise today as a firm believer in the second amendment to the United States Constitution and an opponent of all federal gun laws. In fact, I have introduced legislation, the Second Amendment Restoration Act (H.R. 153), which repeals the misguided federal gun control laws such as the Brady Bill and the assault weapons ban. I believe that the second amendment is one of the foundations of our constitutional liberties. However, Mr. Speaker, another foundation of those liberties is the oath all of us took to respect the Constitutional limits on federal power. While I understand and sympathize with the goals of the proponents of the Protection of Lawful Commerce in Arms Act (H.R. 1036), this bill exceeds those constitutional limitations, and so I must oppose this bill.

It is long past time for Congress to recognize that not every problem requires a federal solution. This country's founders recognized the genius of separating power amongst federal, state and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limited the role of the federal governments in dealing with civil liability matters; instead, it reserved jurisdiction over matters of civil tort, such as gun related alleged-negligence suits, to the state legislatures from which their respective jurisdictions flow.

While I am against the federalization of tort reform, I must voice my complete disapproval for the nature of these very suits brought against gun manufacturers. Lawsuits for monetary damages form gun violence should be aimed at the perpetrators of those crimes, not the manufacturers! Holding manufacturers liable for harm they could neither foresee nor prevent is irresponsible and outlandish. The company that makes a properly functioning product in accordance with the law is acting lawfully and thus should not be taken to court because of misuse by the purchaser (or in many cases, by the one who stole the weapon). I fear these lawsuits are motivated not by a concern for justice but by a search for deep pockets, since gun manufactures have higher incomes than the average criminals, and a fanatical anti-gun political agenda.

These attacks on gun manufacturers are disturbing, since the gun industry provides our law enforcement and military with the necessary tools needed to fight crime and defend our country. We should be helping our law enforcement officers and military, not hurting them by putting reputable gun manufacturers out of business.

However, Mr. Chairman, the most disturbing aspect of these lawsuits is the idea that the gun, an inanimate object, is somehow responsible for crimes. H.R. 1036 enables individuals to abrogate responsibility for their actions, in that it allows gun dealers to be sued because they ''should have known'' the gun would be used in a crime. Under H.R. 1036, gun dealers will still be unjustly forced to scrutinize their customers for criminal intent.

This further erodes the ethics of individual responsibility for one's own actions that must form the basis of a free and moral society. The root problem of violence is not the gun in the hand, but the gun in the heart: each person is accountable for the deeds that flow out of his or her own heart. One can resort to any means available to complete a crime (such as knives, fertilizer, pipes, and baseball bats). Should we start suing the manufacturers of these products as well because they are used in crimes? Of course not—its implications are preposterous.

Finally, Mr. Chairman, I would remind my fellow supporters of gun rights that using unconstitutional federal powers to restrict state gun lawsuits makes it more likely those same powers will be used to restrict our gun rights. Despite these lawsuits, the number one threat to gun ownership remains a federal government freed of its constitutional restraints. Expanding that government in any way, no matter how just the cause may seem, is not in the interests of gun owners or any lovers of liberty.

In conclusion, while I share the concern over the lawsuits against gun manufacturers, which inspired H.R. 1036, this bill continues the disturbing trend toward federalization of tort law. Enhancing the power of the federal government is not in the long-term interests of defenders of the second amendment and other constitutional liberties. Therefore, I must oppose this bill.

Mr. WILSON of South Carolina. Mr. Chairman, if there were previously any doubt about the importance of a vibrant and vigorous firearms industry in the United States, that doubt must surely have dissipated in the months since Sept. 11, 2001.

Since that fateful day, American military personnel have been engaged in operations overseas, against those who seek and plot our destruction.

At this moment, a quarter of a million of our soldiers, sailors, airmen and Marines are deployed in support of Operation Iraqi Freedom.

Thousands of reservists are mobilized, not only to support operations in Iraq, but also to support Operation Enduring Freedom—maintaining the watch against acts of terrorism on American soil.

Thousands of Coast Guardsmen are protecting our coastlines. Tens of thousands of federal, state, and local law enforcement and security personnel are guarding our communities and our public facilities

And millions of private citizens are doing what they always have done—protecting themselves, their families, and their neighborhoods,

One thing these Americans share in common is the need for firearms.

Another thing in common is the firearms that they use. In many instances, our military, law enforcement, security personnel, and private citizens use firearms made by the same manufacturers.

Unfortunately, frivolous lawsuits that have been filed against firearms manufacturers, with the sole intent of driving them out of business. These shameful efforts have been based upon outlandish and widely-rejected theories of liability—theories that would be equally absurd if applied against the manufacturers of any other lawful product.

Many states have already acted to put an end to these unwarranted lawsuits, which seek to hold the firearms industry responsible for the acts of criminals.

It is time for Congress to do so nationwide. It's the right thing to do for America's security.

Mr. SULLIVAN. Mr. Chairman, today, I rise in support of H.R. 1036, the Protection of Lawful Commerce in Arms Act of 2003.

I am a cosponsor of this legislation for several reasons. First, I do not believe that licensed gun manufacturers and merchants should be held legally responsible for the unlawful use of their lawful products. Second, I feel this constitutes a violation of tort law, and could send a dangerous precedent for future lawsuits affecting many other industries to come.

Tort law rests upon a foundation of individual responsibility in which a product may not be defined as defective unless there is something wrong with the product, rather than with the product's user.

Today, this Congress has the opportunity to address frivolous lawsuits and protect a legal and law-abiding industry from legal excess. We should pass this legislation to end the effort to drive law-abiding firearm manufacturers, distributors, and dealers into bankruptcy under the crushing weight of illegitimate lawsuits.

Congress has a constitutional authority to protect the interstate commerce in firearms, a lawful and legal product. I urge my colleagues to vote for this sensible legislation and set a precedent of legal business protection.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protection of Lawful Commerce in Arms Act''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms.

(2) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(3) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(4) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(5) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes

public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(6) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the Framers of the Constitution, by the Congress, or by the legislatures of the several states. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

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

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

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

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

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

SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a firearm (as defined in subparagraph (A) or (B) 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)), or ammunition (as defined in section 921(a)(17) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages or injunctive relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of 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) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought;

(iv) an action for breach of contract or warranty in connection with the purchase of the product; or

(v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended.

(B) NEGLIGENT ENTRUSTMENT.—In subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows or should know the person to whom the product is supplied is likely to use the product, and in fact does use the product, in a manner involving unreasonable risk of physical injury to the person and others.

(6) SELLER.—The term ''seller'' means, with respect to a qualified product—

(A) an importer (as defined in section 921(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 title 18, United States Code;

(B) 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 title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, consistent with Federal, State, and local law.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers or sellers of a qualified product.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–64. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 108–64.

AMENDMENT NO. 1 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer Amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of Amendment No. 1 is as follows:

Amendment No. 1 offered by Mr. WATT:

In section 4(5)(A)(v), strike '', when used as intended''.

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill, because it has not been properly considered through the committee process, leaves a lot to be desired in terms of drafting. This amendment is an effort to correct a real problem with the bill, because the bill purports to give an exception for suits where there are physical injuries or property damage resulting directly from a defect in design or manufacture of the product when the product is used as intended.

The problem is that there is no definition of ''when the product is used as intended,'' so you are left with this situation.

I am sure my colleagues are going to tell you all kinds of things where lawsuits could go forward under this rubric, but I think a number of lawsuits are going to be foreclosed by this language, and I would like to just give one or two examples.

First of all, I am holding in my hand 13 recall notices from manufacturers of weapons. These recall notices recall a product, a gun, a kind of gun, in a lot of cases because when it is accidentally dropped, the gun will discharge.

Well, the question then becomes, if a gun is accidentally dropped, is it being used as intended? Is that gun being used as intended if a person accidentally drops the gun and it discharges?

Mr. Chairman, you have heard the gentleman from Rhode Island (Mr. LANGEVIN) say that was the exact situation which left him paralyzed here, and we should leave no doubt that in those circumstances that there should be liability.

Under this bill, this would apply even if the manufacturer had sent out a recall notice and the person had not acted on that recall notice. In fact, some of those recall notices say, do not do anything immediately on this, we are going to get to you 6 months down the road, and you can bring the gun

back to the dealer, and we will correct whatever problem there is with the gun.

□ 1245

So even if it is during that time period, there could be no potential liability here under this bill.

I think this language is irresponsible; and I am sure my colleagues are going to say, well, we did not intend that. But that is what the bill says, I am reading from the language, and if we had considered this bill in the regular process in the committee, perhaps we could have done a better job. But they were so intent on getting this bill out of committee to the floor and at the National Rifle Association's convention 2 weeks down the road that they did not care about the language.

Mr. Chairman, we should correct this, and this amendment allows us to do that.

Mr. Chairman, I reserve the balance of my time.

Mr. CANNON. Mr. Chairman, I rise to seek the time in opposition.

The CHAIRMAN. The gentleman from Utah (Mr. CANNON) is recognized for 10 minutes.

(Mr. CANNON asked and was given permission to revise and extend his remarks.)

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

I would like to first thank the chairman of the full committee for his expeditious movement of this bill through a hearing and through markup. I would also like to thank the ranking member of my Subcommittee on Commercial and Administrative Law, the gentleman from North Carolina (Mr. WATT), with whom I sometimes differ, but who never, never differs without grace. I appreciate his positions.

There are a number of issues upon which we differ here. Let me just point out, the markup was shortened, to some degree, partly because it was treated as a joke. Nevertheless, this legislation has been considered in the past and was subject to a hearing.

The gentleman from North Carolina is pointing out that a number of lawsuits will be prohibited or stopped by this legislation; and the answer to that statement is yes, that is the purpose of this legislation. It is to stop lawsuits which are frivolous and intended only to destroy the manufacturers and distributors and importers of guns in America as viable commercial activities.

The gentleman also pointed out that some of these lawsuits that will be prohibited would be wrongly prohibited, and that is where we disagree. The gentleman referred to 13 recall notices. The gentleman will recall that in our hearing, we had an expert from the gun industry who said that if a weapon discharged because of a defect which was subject to a recall notice, or even if it was not subject to a recall notice, but if it discharged improperly, they would, that is the industry, the gun manufacturing industry, would still be responsible for that defect according to current law.

Now, the bill before us does not change current law. It only preempts the recent rash of frivolous lawsuits that are intended and explicitly intended by the proponents of these lawsuits to destroy the industry.

This amendment should be defeated because it would strip away from the bill an essential protection from frivolous lawsuits. The bill allows manufacturing and product defect cases to go forward provided that the product was used as intended. This phrase is vital to, for example, protect a gun manufacturer from a frivolous claim that the gun should have been designed to prevent someone from sticking a gun up his nose to scratch, with his finger on the trigger. That is clearly not what was intended for the use of the gun.

Another example, while all manufacturers under national standards voluntarily adopted by the industry design guns to be safe from firing on impact when dropped, a person who uses a pistol as a hammer should not be able to sue for defective design, which just makes sense, when the gun discharges after its foolish abuse of the design.

As one important product liability case stated, it is well settled that a manufacturer is under a duty to use reasonable care in designing his product when used in the manner for which the product was intended. The phrase ''used as intended'' is today routinely applied by courts and juries based on circumstances of the case and what the court or the jury sees as a reasonable intended use. Of course, the juries will no doubt draw extensively on, for example, the owner's manual of a firearm for guidance as to what the intended use is.

It would seem clear in most circumstances to carry a gun is an intended use and that manufacturing and design defects that cause harm when a person drops the gun during the course of its intended use properly and appropriately falls within the exceptions of the bill's provision. It would also seem clear that in most, if not all, circumstances pointing a gun at an innocent person and pulling the trigger is not an intended use. These would be fact-intensive inquiries, however, best left to the discretion of judges and juries. The phrase ''used as intended'' is by no means an unfamiliar term in the case law. The amendment should be defeated so existing case law among the States can be used to appropriately apply it on a case-by-case basis.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of his amendment to close that loophole in the bill when used as intended.

But I also rise in opposition to the whole bill itself, to H.R. 1036. The bill would provide Federal immunity to gun manufacturers and, in my opinion, would halt progress towards safer guns and greater industry accountability. H.R. 1036 would block suits filed by individuals, victims of gun violence seeking to hold the gun industry accountable for irresponsible manufacturing or selling of guns.

Now, gun manufacturers and sellers are exempt from Federal consumer product safety regulation. The gun lobby made sure that the gun industry was exempted from regulation when the Consumer Product Safety Commission was established in the 1970s. This is wrong. The only other product that enjoys this exemption is tobacco. And in my estimation, Teddy bears are more regulated for safety than guns. Giving the gun industry immunity would remove the only incentive to gun manufacturers and dealers to ensure that guns do not fall into the wrong hands.

Past suits have resulted in improved safety features such as internal locks to prevent unauthorized access. Right now, there are local governments who are in court attempting to show that the manufacturers that make guns that too often surface in illegal activities, and the stores that make no attempt to follow the law in selling guns, should be held liable for the relentless damages of gun violence. Now, survivors of some of the Washington area sniping victims have gone to court to sue the manufacturer of the gun that is said to be the murder weapon and the gun shop that sold it after discovering that the dealer had reported 238 guns missing from its inventory in 3 years alone. This bill would prevent these lawsuits from going forward.

I believe that this industry, like every other industry, has an obligation to its consumers and to the public to ensure that their product is manufactured and sold in ways that are safe, legal, and responsible. So I urge my colleagues to support the gentleman's amendment and to vote against this bill.

Mr. CANNON. Mr. Chairman, I yield myself 15 seconds to respond to the gentleman.

We have, in fact, protected manufacturers in dozens of industries. One example is the light aircraft industry where we have set up rules so that we could actually continue, or actually recreate, our light aircraft industry in America.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I thank my distinguished friend for yielding me this time, and I rise in support of this much-needed commonsense legislation.

I am the proud and original supporter of this legislation entitled the Protection of Lawful Commerce in Firearms

Act. It will shield gun manufacturers from irresponsible lawsuits and from damages in cases where firearms are used during criminal acts of third parties, and only there. It does not protect them against wrong-doing and negligent entrustment; it does not protect gun manufacturers against negligent manufacture of dangerous firearms, but only where the firearm is sold legitimately and lawfully.

The legislation is based on a simple, sound premise. We ought not sue Boeing because somebody took a Boeing jet and crashed it into the World Trade Center. We ought not sue Ford Motor Company because of negligence of a drunk driver.

The bill has broad support with 251 cosponsors, including some 46 Democrats. The legislation is supported by organized labor, including local affiliates of the United Auto Workers and the United Mine Workers. It is necessary simply because there are junk lawsuits which are being filed to harass law-abiding businessmen. If successful, such lawsuits would bankrupt U.S. firearms manufacturers and destroy a legitimate, lawfully, and carefully and intensely regulated industry in which the manufacturers and sellers are regulated intensely by ATF and other Federal and State regulatory agencies.

Some two dozen lawsuits have been filed in States and municipalities that would be dealt with under this. The courts have spoken with regard to these lawsuits, dismissing them almost entirely. In spite of the fact that the lawsuits filed against the firearms industry have produced no lawful or successful results, cities, counties, and others continue to file them, mostly for harassment purposes. These lawsuits cost not only the firearms industry, but municipalities, hundreds of millions of dollars. This legislation is directed at curtailing that.

The bill does not affect the right of a lawsuit to sue for negligence or other wrong-doing.

Mr. WATT. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, I rise in support of the Watt amendment. I think anyone who has been listening to this debate realizes that this is not a debate about the ability of Americans to have responsible gun ownership, something I think everyone in this debate has recognized. But I rise to support the Watt amendment because it shows some attention to the over 1,000 children a year, our children, who kill themselves using a firearm. I rise to pay some attention to the hundreds of children every year who shoot their playmates unintentionally, our children.

The reason these children deserve some standing in this debate is that those children would be alive if there was some way that these guns were secured so that our children did not get access to these firearms. Right now, many people of common sense who may stand as jurors believe that manufacturers should provide responsible gun owners with the ability to secure their firearms so kids do not get them. That may include trigger locks, it may include boxes, it may include these new computerized systems to keep our kids from shooting their playmates and shooting themselves in a moment of temporary teenage depression.

But this legislation, without the Watt amendment, would preclude jurors from holding manufacturers responsible and prevent jurors, reasonably minded jurors, from finding them responsible and not giving consumers what they deserve. And consumers of a firearm deserve the ability to lock them away and not allow them to be used by their children. If we adopt the Watt amendment, we will allow jurors to make that decision.

I have to tell my colleagues, when I read about some 10-year-old getting his uncle's gun and shooting his playmate because it was not secured, I stand for the proposition that jurors ought to be able to say that trigger locks ought to be sold with these firearms so that consumers will have them.

Support the Watt amendment.

Mr. CANNON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), the author of the underlying bill.

□ 1300

Mr. STEARNS. Mr. Chairman, I thank my colleague, the gentleman from Utah, for yielding time to me.

Mr. Chairman, the Watt amendment is attacking the words ''used as intended'', and he has sort of indicated that those words are vague and perhaps they should be deleted because the courts could not quite understand them.

I have Black's Law Dictionary back in my office, Mr. Chairman. I went up and looked up the words. It is defined as ''the intended use doctrine,'' defined as ''The rule imposing a duty on a manufacturer to develop a product so that it is reasonably safe for its intended or foreseeable users.''

In fact, if we look up the words ''used as intended,'' for example, the words ''manufacturing defects'' or ''design defects,'' any of these terms which, at first glance, would connote some nebulous concept. Indeed, it is not a nebulous concept; there is a strict interpretation of these words in tort law.

In Westlaw, which is a commonly used legal database, if we go into that and put in the words ''used as intended,'' we come up with that it has been cited in 1,300 State cases and over 900 Federal cases come up. That is ample guidance for courts to use regarding what ''used as intended'' means in a case alleging defective design or manufacture.

The treatise American Law of Products Liability states that ''Courts have consistently refused to impose liability on manufacturers of firearms that function exactly as intended.''

Mr. Chairman, I think what I am saying is, there is ample evidence in the law, both in the Federal and in the State, where the term ''used as intended'' is clearly understood in tort law, so there is no ambiguity here.

Mr. Chairman, I would urge defeat of the Watt amendment.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think, regarding the people who have made statements in support of and against this amendment, I think the problem is that we have left a substantial ambiguity in the law because we have not taken the time to deal with this in the committee, where it should have been dealt with.

With all respect to the chairman of my subcommittee, the gentleman from Utah (Mr. CANNON), whom I respect and admire greatly, the fact that somebody shows up at a hearing and says that this language, ''used as intended,'' means one thing or another really is not going to be what controls that. The same judges that they have said are irresponsible are going to be making that determination.

Mr. Chairman, when we write a piece of legislation, it is our responsibility to write it in a way that leaves them no discretion about what we mean. I would submit that a child who picks up a gun and drops it, and it discharges, most of us would stand here and say that that gun was not being used as intended. Therefore, the parents of that child would have no recourse; nobody would have any recourse against the manufacturer.

I would submit that anybody who drops a gun and it accidentally discharges, as it did in the case of the gentleman from Rhode Island (Mr. LANGEVIN), could reasonably argue that that was not, or that that falls within the exception.

It is our responsibility to close these loopholes, not open additional ones. I ask my colleagues to support the amendment.

Mr. CANNON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT), my friend, for his gracious comments.

Referring back to the prior speaker, the gentleman from Washington, he made a couple points that I think are important. This is not about the right to own a gun; this is an entirely different discussion.

I indicated, on his concern about seeing trigger locks on all guns, frankly, we need to research and improve safety devices over time. Hopefully, some of those improvements in safety will come from a healthy, robust manufacturing center in our country that can afford to develop the kinds of technologies that will keep the many police officers who are shot with their own guns safe from their own guns. That takes a robust industry to do that.

In closing, let me just point out to the gentleman, if we enter the words ''used as intended,'' ''manufacturing defect,'' or ''design defect'' into Westlaw, a commonly used database, we come up with 1,300 State cases and 900 Federal cases. We have a great deal of understanding about the concept that is being attacked in this amendment.

I encourage the Members of this body to oppose this amendment, to go with legislation that is sensible and reasonable and will improve the environment in which we have to exercise our right to keep and bear arms in America.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–64.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate amendment No. 2.

The text of amendment No. 2 is as follows:

Amendment No. 2 offered by Mr. SCOTT of Virginia:

In section 4(5)(A), strike clause (i) and insert the following:

(i) an action brought against a transferor who transfers a firearm in violation of section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by conduct of the transferee involving the firearm;

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the underlying right for redress would apply if the defendant transfers a firearm in violation of the law and is convicted of that crime. In other words, if the defendant has been convicted of an illegal transfer of a firearm, he loses the benefits of the bill.

This amendment eliminates the requirement under the bill for a conviction before a defendant can be sued, and substitutes the requirement that the defendant actually committed the crime. Requiring a conviction before a defendant can be sued for civil consequences of his unlawful acts would constitute an extraordinary change in traditional civil liability standards. Moreover, such a requirement would create bizarre results based on what a prosecutor decides to do in a particular case and when he decides to do it.

The prosecutor may choose not to prosecute a particular case for various reasons. This would preclude a claim, regardless of how egregious the injuries are or how clear the liability; or even if a case is prosecuted, the prosecutor may decide to plea bargain a case, allowing a defendant who has illegally transferred many guns to plead guilty to one transfer and drop the other cases. It would be absurd to suggest that only the victims in the case pleaded to can sue while the others cannot.

Of course, there is always a possibility the case can be thrown out because of an unlawful search or seizure, because of a coerced confession, or simply because the prosecutor is unable to prove his case beyond a reasonable doubt. The case might be lost because a jury was pretty sure the defendant was guilty, but not beyond a reasonable doubt.

Even where there is a conviction, the timing of the conviction alone might be dispositive of the claim because there is nothing in the bill or the law which tolls the statute of limitations in a civil claim pending prosecution and appeals.

Mr. Chairman, this is a dramatic departure from traditional civil proceedings. In an automobile accident, for example, one can be successful if one can prove that the defendant went through the red light. We do not lose our case because the police officer did not give the defendant a ticket, or gave him a ticket but did not get a conviction. Say one brings the witnesses to court and proves the defendant, in fact, went through the red light. Under the theory under this bill, that person would lose his case if the police officer failed to successfully prosecute the defendant.

If this amendment is adopted, even without the conviction, the unlawful transfer would still have to be proven in order to pursue the case. Under traditional civil law, we would still have to prove the defendant violated the law and that the violation was the proximate cause of the injury.

If someone's criminal activity causes injury, he should not escape civil liability merely because he was not technically convicted of that crime. So I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FEENEY. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Florida (Mr. FEENEY) is recognized for 10 minutes.

Mr. FEENEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I respectfully disagree with the amendment of the gentleman from Virginia (Mr. SCOTT), and would ask a ''no'' vote on his proposed amendment.

In essence, this is a battle about two competing theories with respect to gun manufacturers and gun sellers in America. There is one theory that presumes that gun manufacturers and gun sellers are inherently guilty of something, somewhere, almost all of the time. The other theory is that, consistent with the second amendment, if we really believe that the second amendment protects the right to bear and own arms, that we must inherently protect the right of people to manufacture and distribute those arms.

What the gentleman's amendment does, as I read it, is basically several things that are very, very important, including allowing civil courts to find somebody guilty of criminal offenses without all of the inherent protections that we give to people who are accused of crimes.

It actually flies in the face of a subsequent amendment filed by the gentlewoman from California (Ms. LINDA T. SANCHEZ), who makes the keystone of her amendment actually that one be convicted and found guilty of a crime before they are responsible in a civil action.

What this amendment of the gentleman from Virginia (Mr. SCOTT) does is to remove the requirement that you are convicted of any criminal act before you are held guilty in civil responsibility. It would allow lawsuits against firearms manufacturers, dealers, or importers if the action is against a transferor who knowingly transfers a firearm, knowing that such firearms will be used to commit a crime of violence or drug trafficking crime.

The bill currently allows for suits against people if the transferor is actually convicted of a crime. What this amendment does is to undermine the ability of somebody to defend themselves with all the inherent criminal protections that they ought to have before they are essentially found to have committed a crime.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just point out that without this amendment, this bill protects criminals. Without the amendment, we could have a criminal actually admitting to the crime, but unless there was a conviction, we could not use that admission in a civil case.

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I just want to join in support of this amendment offered by the gentleman from Virginia (Mr. SCOTT). Again, this is a case where, had we taken the time in committee to evaluate the language and allow the amendment of the gentleman from Virginia (Mr. SCOTT), which was at the desk when the question was called on the bill in committee, if we had had this debate, we could probably have corrected this language to say what the gentleman from Florida (Mr. FEENEY) would like for it to say.

Unfortunately, the bill says what it says. As much as he would like for it to say something different than what it says, it does not. It says that in order to pursue a cause of action, we have to have had a conviction.

That is ridiculous. The bill should not say that. Now, maybe the drafters did not intend for it to say that, which is exactly the point that I have been making throughout this process: If we had taken the time to evaluate the provisions of this bill, then we could have at least gotten the bill to say what they intend for it to say.

However, no judge is going to have the luxury of saying, well, they intended to say this, and therefore I am going to interpret this statute in that way. The judge has to look at the law as we have written it. Right now, this bill does not say what my colleagues would like for it to say because we have not taken the time to make it say that.

Mr. Chairman, we are being irresponsible and we are passing legislation through this House that we know has a serious flaw, and they are looking at us saying, well, you cannot read. I learned to read a long time ago. I can read what the language of this bill says, and it says exactly what the gentleman from Virginia (Mr. SCOTT) says it says. Nothing that my colleagues on the other side can say can change that.

We need to amend the bill so that it says what they want it to say.

Mr. FEENEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the gentleman is a very capable reader. I have discovered that in committee, and enjoy working with him.

However, I can read as well. What the bill does is say, before you are treated as a criminal, you need to be tried as a criminal in a criminal court, and you need to be convicted as a criminal. That is the American way.

What the amendment says is that you can be treated as a criminal even though you have never been tried as a criminal, and even though you have never been in a criminal court and certainly never been convicted.

Members will recall that the Bill of Rights, aside from protecting the right to bear firearms, also protects certain rights before one is convicted of a crime. It is the great American criminal jurisprudence.

□ 1315

Among other things, before you are a criminal, you have the right to a trial, you have the right to face your accusers, you have a right to call witnesses, you have a right to an attorney, you have a right to due process, and you have a right to be proven guilty beyond a reasonable doubt.

What the gentleman's amendment does is to essentially eviscerate all of the protections we give people in America who are accused of a crime and make them criminals even though they have never had a day to protect themselves in a criminal court.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would ask the gentleman if he could state any other civil statute that requires a criminal conviction as a predicate. And I would point out on page 9 of the bill ''in an action in which a manufacturer or seller of a qualified product knowingly and willfully violated,'' but it does not say anything about a conviction. So the manufacturer or seller is not afforded any of those rights we just heard of. And I just want to know if there is any other civil law that requires a criminal conviction as a predicate to your right to get civil remedies.

Mr. Chairman, I reserve the balance of my time.

Mr. FEENEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would suggest that there are thousands of civil laws both at the Federal level and the State level, and we will try to get some research on which ones actually require a criminal predicate. But what I would suggest to the gentleman is that the part of the bill that he references regarding statutes that have been violated could be either a civil or criminal statute. So it does not require a civil court to find an individual defendant guilty of a crime. It actually permits a case against a gun manufacturer who violates a State law or Federal law in a civil matter. And I think this is very different because what the gentleman's amendment does is to specify a Federal criminal offense and to suggest civil courts can find you guilty even though you have never had your day in court, never been in criminal court, and certainly never been convicted in criminal court.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, since the gentleman is defending the bill, I would ask him on page 8 of the bill, lines 17 through 22, whether or not the word ''transferee'' on line 22 and ''transferor'' on lines 17 and 18, whether that is a typographical error.

Mr. Chairman, I reserve the balance of my time.

Mr. FEENEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, actually I was debating the gentleman's amendment, and we have got staff taking a look at the specific provisions you have referred to. What I would suggest, Mr. Chairman, is ultimately this amendment is an attempt to eviscerate the second amendment in a way that the Constitution would not permit, in a way the courts fortunately have not permitted, and in a way that elected representatives and legislatures around the country and in this Congress would not permit.

What it basically does is to try to, through all sorts of litigation against gun manufacturers and gun sellers, make weapons that are protected under the second amendment unavailable. So what it does is to say that the second amendment to the United States Constitution, while it may protect your theoretical right to own and bear a weapon, actually is meaningless because we are not going to allow anybody either to manufacture or to sell those weapons.

And I would suggest that the adversaries of this bill and the people that are trying to weaken or undermine or eviscerate the bill refer back to Oliver Wendell Holmes's great statement in 1894 where he explained why you hold certain people responsible. He said:

> Why is not a man who sells firearms answerable for assaults committed with pistols bought of him since he must be taken to know the probability that sooner or later someone will buy a pistol of him for some unlawful end? The principle seem pretty well established, in this country at least, that everyone has the right to rely upon his fellow man acting lawfully.

What the opponents of this bill want to do is to presume that everybody who manufactures or sells a weapon is guilty of something, ought to be put out of business through bankruptcy or some other means.

Mr. Chairman, I reserve the balance of my time to close.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support what is an enormously sensible amendment to legislation that has come to the floor with a lot of its own baggage. I recognize that we have legislation that people proudly say there are 250 sponsors. I have not had my time on the floor, so I will just add 250 celebratory sponsors gearing themselves toward a pending convention and looking, of course, towards making a lot of new friends in the National Rifle Association.

But we have to deal with life and death on the floor of the House. We have to deal with the question of saving lives. And certainly I would think that the amendment that the gentleman from Virginia (Mr. SCOTT) has offered again provides added protection to those who are left most vulnerable with this legislation.

Clearly I think if we were to explain this in the ABC's and we would explain to the American people that we are closing the door on a number of petitioners who have been injured and/or killed because of the misuse of a firearm, they would understand that this is not in conflict with the second amendment. We all believe that the second amendment does give the right to Americans to bear arms. I believe, unfortunately, that it dealt with the militia, but to bear arms. But we also understand that there is normal product liability, if you will, laws that deal with the protection of those who have the right to engage in a lawsuit because they have been injured.

This particular amendment deals with the requirement under the bill for

the conviction of a transferer who knowingly transfers a firearm knowing that such a firearm will be used to commit a crime of violence before a transferer can be sued. And we eliminate that requirement.

It makes sense that if you are dealing with a criminal element and that you have been injured and that there has been some misuse, then you should not be limited and not have that additional requirement.

Mr. Chairman, this is an intelligent amendment to a bill that has been on a fast track so that we can all celebrate at the National Rifle Association convention.

Mr. FEENEY. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Virginia (Mr. SCOTT) has 1½ minutes remaining. The gentleman from Florida (Mr. FEENEY) has 4 minutes remaining. The gentleman from Florida has the right to close.

Mr. FEENEY. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I rise to ask my colleague from Virginia a question.

Suppose there is a conviction in a case and then a civil lawsuit is filed which would be allowed, and then the conviction is reversed on appeal. What would happen under this bill under those circumstances?

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for the question; and, frankly, Mr. Chairman, I do not know. You would have someone who has filed his lawsuit, gets a judgment. The underlying conviction is overturned. I do not know. Maybe the gentleman from Colorado can help answer the question. In my opening remarks I made a point that pending prosecution and all the appeals, if you start off with an acquittal, with a case thrown out and then reinstated on appeal, maybe after the statute of limitations. There is no other situation where you have to get a conviction before the civil lawsuit can go forward; and I would ask the gentleman from Colorado.

The CHAIRMAN. The Chair recognize the gentleman from Florida (Mr. FEENEY) unless the gentleman wants to close.

Mr. FEENEY. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman is recognized for 30 seconds.

Mr. SCOTT of Virginia. Mr. Chairman, in the bill we have the action of a manufacturer who willingly and knowingly violates a State or Federal statute and can be sued. You do not have to have a conviction.

You have to have a conviction in this situation. The gentleman from North Carolina (Mr. WATT) has revealed a bazaar situation. Some people can bring a case and not bring a case depending upon whether their case was part of a plea bargain or not.

This is a major departure from any civil procedure, and if the gentleman can advise us if there is any other civil lawsuit that requires a conviction as a predicate rather than knowingly violated the statute, we would like to hear it.

Mr. Chairman, I hope we would adopt the amendment.

Mr. FEENEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to apologize to my colleague because they asked the gentleman from Colorado to respond, and while Colorado is a great sunshine State, I actually represent the Sunshine State of Florida.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. FEENEY. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I apologize to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Reclaiming my time, there is no offense taken. Colorado is a beautiful State, but please come visit the Sunshine State when you get a chance.

I will give you this answer, and that is, while it will take me some time to research the tens of thousands of Federal and State civil actions to see which ones are predicated on a criminal conviction, I am also not aware of any situation where a civil court without the protections of the Bill of Rights can find one guilty of a Federal criminal offense that carries a 10-year punishment. And I think that is the crux of what this amendment gets to.

Because, as you know, the Supreme Court has stated, quoting James Madison in the case of The New York Times v. Sullivan: ''Some degree of abuse is inseparable from the proper use of everything.''

That includes hammers, ice picks, steak knives, lawn mowers, other things that have been used as weapons. What the opponents of the bill suggest is that every manufacturer and every seller must be guilty of something simply because they are selling a product that is not only a legal product, but it is particularly and especially protected by the second amendment to the United States Constitution.

A violation of section 18 of the U.S. Code, section 927(h) is exactly what the amendment that the gentleman gets to. A conviction under that statute carriers up to a 10-year imprisonment and a fine potentially.

What the gentleman wants to do is to basically say that somebody can be found guilty of that Federal criminal statute in a civil court, basically declaring somebody a criminal even though they have never been in a criminal court. For example, they would be called a criminal as actually the gentlewoman just did and she said we are protecting criminals if we do not adopt this wonderful amendment.

Ultimately, what we are doing here is to say to an accused person they will be found guilty in a civil court of a crime even though they never had the rights afforded them by the Bill of Rights, including the right to an attorney, the right to face your accuser, the right to call witnesses, the right to due process, and the right to be proven guilty of a crime beyond a reasonable doubt.

Please protect innocent parties, and please protect the second amendment and oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108–64.

AMENDMENT NO. 3 OFFERED BY MS. LINDA T. SÁNCHEZ OF CALIFORNIA

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. Linda T. Sánchez of California:

In section 4(5)(A)—

(1) redesignate clauses (ii) through (v) as clauses (iii) through (vi), respectively; and

(2) insert after clause (i) the following:

''(ii) an action brought against a transferor convicted of a violation of paragraph (3) or (4) of section 922(d) of title 18, United States Code, or of a comparable or identical provision of State law, by a party directly harmed by conduct of which the transferee is convicted;''

In section 4(5)(B), strike ''(A)(ii)'' and insert ''(A)(iii)''.

The CHAIRMAN. Pursuant to House Resolution 181, the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, H.R. 1036, the Protection of Lawful Commerce and Arms Act, seeks 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 product by others.

The bill makes certain exceptions, however, to allow lawsuits against gun manufacturers, sellers, distributors, and importers. For example, it allows a lawsuit to proceed in case of negligence per se or negligent entrustment. It also allows lawsuits for victims in certain cases where the gun seller or manufacturer knowingly or willingly broke State or Federal law.

My amendment would be one of the smaller exceptions to the ban on lawsuits. It would essentially do more than require gun sellers or manufacturers to obey the law that already exists.

□ 1330

Section 922 of title XVIII of the U.S. Code establishes that it is unlawful for any person to sell guns or ammunition to someone who uses or is addicted to illegal drugs or who has been adjudicated as a mental defective. Later on, the same section makes it illegal for drug users or abusers or persons with adjudicated mental problems to ship, possess or receive guns or ammunition that have been in interstate commerce.

This makes sense. Congress has decided that there are certain people who should not have access to firearms, and these are the two categories of people who are restricted.

Congress further decided that the responsibility for this restriction is on both the buyer and the seller. If the gun sellers and manufacturers are not checking to be sure that they do not sell guns to people with drug or mental problems, then how can we keep the guns out of their hands? That is why the U.S. Code specifically prohibits both the sale and the purchase.

I just want the gun sellers to do the proper background checks. If they do not and it turns out they sold weapons or ammunition to a person in one of those categories, then they should not have the benefit of immunity from the court system. As a matter of public policy, we should most definitely provide victims with an opportunity to take their case to court, and we should allow judges the opportunity to decide if what the gun seller did was a violation of the law.

Last fall, when there were suspicions that the Beltway sniper might have had a mental illness, the House rapidly passed a bill to enforce the already-existing law that requires the FBI to list any person who has been adjudicated as a mental defective on the National Instant Criminal Background Check system. It is important to note that the bill did not create this requirement; rather, it sought to provide incentive grants to encourage the use of it.

That bill unfortunately did not pass the Senate, but that does not change the fact that this requirement already exists. If we are intent on requiring that the information be listed in the system, and if we say that gun sellers must do background checks, then how can we go wrong by holding them liable if they fail to do the background check?

Having already mentioned some of my opposition to this bill, and having tried to correct one of the many, many problems with it, I would like to talk about the egregious manner the Majority has used in moving this bill through the House.

This is a fairly partisan bill, which went through a very partisan Committee, the Judiciary Committee. No hearings were held at Full Committee. Essentially, no markup occurred either. Technically, the Committee met and we started debate on what should have been 10–15 amendments. The first one was offered and withdrawn. Shortly after we began discussing the second one, offered by Mr. Watt, the Majority called the previous question. And with that, our so-called democratic debate on an important piece of legislation ended.

The Majority has since made claims that they cut off debate because no amendments were at the desk. This is patently untrue. As I said, and as the transcript from that markup shows, we were in the MIDDLE of the debate on an amendment when the previous question was called.

I realize that the Majority wouldn't have liked a lot of our amendments, in which case they would have had the freedom to vote against then. But to not even allow debate on a topic of such divergent opinions is a disgrace. We're talking about a bill that includes findings that have no basis in fact or law. A bill that makes sweeping changes to liability, thus cutting off legitimate victims' access to the court system. A bill that rewards certain shoddy gun dealers with the same immunity that it gives to honest manufacturers who have worked diligently to improve their products.

That appalling markup happened last Thursday. Now here we are today, less than a week later, debating the bill on the Floor. But one again, a true democratic effort has been thwarted, because the Majority has only permitted us five amendments. Five amendments. Again, I'm sure that the Majority didn't like all of the amendments we offered. But that doesn't mean they are non-germane. And it's no reason to cut off debate. If that's going to be the basis for how we run this body, then we should stop claiming to be a democracy.

And, frankly, the amendments allowed today don't include all of the "heavy" amendments we offered. Let's be honest—my amendment has a much smaller impact than some of the other ones offered today. I think it represents an important change, but I also think there were a whole host of other important changes that could have been made—had we had a full markup, or had the Rule been an open one.

I am shocked by the complete disregard to Majority has demonstrated for the democratic process. I urge my colleagues on both sides of the aisle to resist this kind of disintegration of our free speech and our democratic process. Otherwise, the democratic ideals our troops are fighting for in the Middle East may as well be meaningless.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentlewoman from Tennessee (Mrs. BLACKBURN) seek the time in opposition?

Mrs. BLACKBURN. Yes, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 10 minutes in opposition.

Mrs. BLACKBURN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the base bill and in opposition to the Sánchez amendment. The language in this amendment would allow lawsuits to be brought against gun manufacturers and dealers for damages that are caused by the criminal misuse of that product by a third party if the firearm transferor knows or has reasonable cause to believe that the recipient is an unlawful user of or addicted to any controlled substance or has been adjudicated as a mental defective or committed to a mental institution.

Making such a transfer to a drug addict or someone who has been declared mentally incompetent is already illegal under the Gun Control Act and the laws of many States. It is clearly covered by the existing language of this bill.

Those who support H.R. 1036 have no intention of preventing lawsuits against those convicted of criminal acts, and under the language of the bill, we do not need to list every possible violation for them to be held accountable.

What we do want to do is prevent junk lawsuits against the firearms industry. Many of these companies operate on narrow margins, and those who oppose the second amendment hope to use our legal system and the threat of costly lawsuits to bankrupt a legal industry. This is clearly wrong, and I would urge my colleagues to oppose this amendment and support passage of H.R. 1036.

Mr. Chairman, I reserve the balance of my time.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

I do not understand how my colleagues on the other side of the aisle can say that this case is clearly set forth in the proposed legislation, because the negligence, number one, the negligence per se doctrine, does not exist in every State, and I believe it is the citizens of those States who deserve the kind of protections included in this amendment.

The other exception that is stated in this bill is for knowingly or willfully violating Federal or State law, and it requires a conviction, and that does not apply here either. That implication or that state of mind, that mens rea, requires a specific mens rea, whereas my amendment here only includes a reasonable cause to believe standard.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, allow me to thank the gentlewoman from California for a very thoughtful amendment that really seems not to be understood by the opponents of the amendment.

First of all, I think we should make it very clear that what is happening with H.R. 1036 is that right as we speak, Mr. Chairman, we are stopping dead in its tracks any lawsuit by any jurisdiction, local, State or civilian, against a manufacturer, distributors and dealers dealing with firearms. This is an outrage on its face. It makes absolutely no sense that we would begin to intrude into State's rights and individual petitioner rights that would disallow pending lawsuits.

That means that a law enforcement officer who brutally kills and/or injures him or his family, her or her family, cannot engage in a lawsuit. It means that this is, in fact, a pay-as-you-go legislation, and good amendments, of which I support all of the amendments that are on the floor today, are not taken seriously.

This amendment is a good amendment because it is required by law that a person not sell to addicted individuals. What this amendment says is, we do not have to have a conviction. It simply says, if these are addicted individuals and a person illegally sells to them, or people suffering with mental illness or have a mental health condition or in need of mental services, that they have a problem; and therefore, when I say problem, those gun sellers or manufacturers, that they, in fact, should be liable under the laws of this land.

This legislation says in an affronting way, insulting way, that a person does not have the ability to go into the courthouse. Besides the insult of the way this bill came to the floor of the House and the insult of the process, good amendments are on the floor that are not being accepted, and amendments that were in the Committee on Rules, amendments to protect children, amendments that dealt with assault weapons and amendments that dealt with law enforcement officers, were rejected.

I would simply ask my colleagues to overlook the fact that we have a convention of the National Rifle Association pending, and let us try to do what is good for America. Look at the Sánchez amendment and realize that it makes sense because it is existing law. A person cannot sell to addicted individuals; a person should not sell to people suffering from mental illness, and it is that person's responsibility to check. If, in fact, it reflects back on the gun seller and then the manufacturer, that is what should be decided in a court of law.

The ultimate affront, as I said, is the very fact that existing, pending lawsuits that are going on in our courts today, in State courts and Federal courts, will cease and desist because of this legislation. Can we think of a more unfair action in this Congress in light of the fact that we believe we live in a democracy? I cannot.

I would just simply say in closing, I hope the gentlewoman's amendment is accepted. I hope the Meehan amendment is accepted, the two Watt amendments are accepted. I wish they were, and of course, the Scott amendment, and I really hope our colleagues would vote against this legislation.

Mrs. BLACKBURN. Mr. Chairman, I yield myself such time as I may consume.

The claims have been made that the bill's requirement that a knowing violation of the statute occurs is unjust. The claim that it is too burdensome to require that a person knowingly violates the law before they can be said to meet the exceptions to the bill fails to understand the flexible nature of the requirement.

A typical jury instruction regarding what the requirement ''unknowing'' means states as follows: ''Knowledge may be proved by all of the facts and circumstances surrounding the case. You, the jury, may infer knowledge from a combination of suspicion and indifference to the truth. If you find that a person had a strong suspicion that things were not what they seemed or that someone had withheld some important facts, yet shut his eyes for fear of what he would learn, you may conclude that he acted knowingly.''

The knowing standard is clearly flexible enough to produce justice in our courts in all circumstances.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank the gentlewoman from Tennessee for yielding to me.

I would say to the gentlewoman from Texas that I understand her feelings when she mentions she finds this bill an insult, and she sort of indicates it is perhaps because of what happened in the Committee on the Judiciary. She has mentioned that perhaps the rule, and she mentioned the NRA convention, but I still do not think that those kinds of statements necessarily apply and convince Members not to vote for this bill because, basically, H.R. 1036 already incorporates what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) is providing under her amendment.

I have to be honest. I think what she is saying is praiseworthy, but the amendment is not necessary because we already have in the bill the language that is needed.

We have used the words ''negligent entrustment,'' and this is a legal term, and that term is used in the bill. Because of the way it is used in the bill, it automatically covers what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) wants to put in her amendment as part of the bill, and I might read ''negligent entrustment'' just to clarify what the actual legal definition is, as defined.

It is ''supplying of a qualified product by a seller for use by another person when the seller knows or should know the person to whom the product is supplied is likely to use the product and, in fact, does use the product in a manner involving unreasonable risk of physical injury to the person and others.''

The bill already allows suits for negligent entrustment or negligence per se or where a manufacturer or seller knowingly and willfully violates a State or Federal statute applicable to the sale or marketing of the product and the violation has a proximate cause of the harm for which relief is sought.

In a nutshell, we have in H.R. 1036 all the necessary language to cover what the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) is talking about. So I urge my colleagues not to support the Sánchez amendment. It is unnecessary because H.R. 1036 already holds liable anyone who violates any State or Federal statute.

The Sánchez amendment also eliminates a requirement that a violation of a Federal statute must actually cause an injury before liability can attach. So I urge my colleagues to vote no on the Sánchez amendment.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE. Mr. Chairman, I thank the distinguished gentlewoman for yielding to me.

Let me quickly just cite for the gentleman, and I will not pose it in terms of a question for him to respond, but under section 3, subsection (b), any pending litigation against gun manufacturers, distributors and dealers would be immediately dismissed under this enactment. It might include actions that would come under the gentlewoman's particular amendment, and so if her amendment would be included, it would mean that any pending action that was based upon firearms in the hands of those suffering from mental illness or those who are drug addicted would continue.

This gentleman wants those lawsuits to be extinguished and those injured to be denied their justice.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

I think it is important to clarify something that was stated by my colleagues on the other side of the aisle. They keep talking about negligent entrustment, but negligent entrustment liability only applies when someone knows that person is going to commit a crime. However, this amendment specifically speaks to a different type of mens rea. It speaks to the reasonable cause to believe standard. It does not require, as the current bill stands, the mens rea of knowingly or willfully, plus a conviction, in order to hold these distributors and manufacturers liable.

I think the purpose of this amendment is strictly as an incentive to make sure that sellers and manufacturers and dealers are actually doing the criminal background checks that the law already requires of them; and again, I am talking about having a reasonable cause to believe that somebody is either addicted to drugs or has been mentally adjudicated as incompetent.

I think that requiring a higher standard of proof in terms of the intent of the seller or the distributor, plus a conviction, denies legitimate plaintiffs the right to sue in civil court, and so I would urge my colleagues to please support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. BLACKBURN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, maybe I could just have a colloquy with the gentlewoman on her amendment.

Would my colleague not agree that the language dealing with negligent entrustment is not part of the bill, H.R. 1036?

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentlewoman from California.

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, it is part of the bill. My understanding it is a definition in part of the bill.

Mr. STEARNS. Would the gentlewoman not agree that that term ''negligent entrustment'' is fully understood under tort law?

□ 1345

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, if the gentleman will continue to yield, I would say no, I believe it is applied on a case-by-case basis under tort law.

Mr. STEARNS. But the consensus is, when we read the gentlewoman's amendment, in fact everything she has asked for is already included in our bill. So we think the amendment, as praiseworthy as it might be, in effect it is already being spoken to and clarified in our bill, so we just do not think the gentlewoman's amendment is necessary.

Can the gentlewoman define very clearly why the term ''negligent entrustment'' does not cover all that is necessary in tort law and why the gentlewoman's amendment would be needed with that already in existence?

Ms. LINDA T. SANCHEZ of California. Well, if the intention is to cover the incidence that I am talking about, of dealers or sellers or manufacturers who have reasonable cause to believe, why not state that intention clearly in the legislation?

My understanding is that the negligence per se definition section in the bill does not state those cases.

Mr. STEARNS. Well, reclaiming my time, Mr. Chairman, I disagree. Negligent entrustment, as I read the definition earlier, it is all laid out.

Ms. LINDA T. SANCHEZ of California. So we agree to disagree, in other words.

Mr. STEARNS. Reclaiming my time, Mr. Chairman, I urge a ''no'' vote on the Sanchez amendment.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I yield myself the balance of my time. In closing, I just want to say that if we had had the opportunity to bring these amendments up in subcommittee and to discuss them at length, I think we probably could have come to some agreement in terms of what cases we chose to cover by this piece of legislation and which cases we did not.

However, we were not afforded that opportunity because the question was called and debate was cut off. Now we find ourselves here on the floor of the House debating amendments, a scant five, when we had 10 to 15 to offer in subcommittee. This, in essence, cuts off the democratic process, which in essence does not give us the chance to meaningfully consider the amendments as a way to improve this bill.

I urge that my colleagues vote ''yes'' on my amendment.

Mrs. BLACKBURN. Mr. Chairman, I yield myself the balance of my time.

As we have heard from the discussion, the provisions that have been mentioned are covered. I would encourage my colleagues to vote ''no'' on this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–64.

AMENDMENT NO. 4 OFFERED BY MR. MEEHAN

Mr. MEEHAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MEEHAN:

In section 4(5)(A), strike clause (ii) and insert the following:

(ii) an action brought against a manufacturer, seller, or trade association for negligence;

In section 4(5)—

(1) strike ''(A) IN GENERAL.—'';

(2) strike subparagraph (B); and

(3) redesignate clauses (i) through (v) as subparagraphs (A) through (E), respectively; and

(4) move the matter preceding the provisions redesignated by paragraph (3) of this amendment, and each of such provisions, 2 ems to the left.

The CHAIRMAN. Pursuant to House Resolution 181, the gentleman from Massachusetts (Mr. MEEHAN) and a member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. MEEHAN asked and was given permission to revise and extend his remarks.)

Mr. MEEHAN. Mr. Chairman, I do not think any industry should be given blanket immunity for its negligence, especially when it results in the deaths of innocent people. My amendment would allow the victims of gun violence to recover damages from the manufacturers or sellers of firearms where their negligence allows guns to fall into the hands of criminals. It would ensure that manufacturers, distributors, and retailers are held responsible for their negligence just as every other industry and every other individual may be held responsible.

Now, without my amendment, the bill would essentially immunize manufacturers from lawsuits from victims of gun violence, and it would allow these victims to sue retailers only under exceedingly narrow circumstances. Even if my colleagues think strict liability or rather expansive legal theories should not be available in gun cases, should we not all be able to agree that a well-settled set of principles of negligence should apply to guns in the same way that they apply to virtually every other context under State common law?

As reported by the Committee on the Judiciary, the bill would bar suits against manufacturers entirely, and it would limit claims against retailers to theories based on negligent entrustment or negligence per se. The problem with negligent entrustment is that it would apply only where the person to whom the gun is supplied uses it in a manner involving an unreasonable risk or a physical injury to that person or to others. This means the retailers who negligently sells a gun to a straw purchaser would not be liable if the ultimate recipient uses the weapon to shoot a police officer, because straw purchasers transfer guns to criminals rather than using them themselves to commit the crime of violence themselves.

So what does that mean? It means this bill really does immunize the entire chain of suppliers, even when they have reason to know that the weapons they sell will end up in the hands of criminals. The problem with negligence per se is that some States do not even recognize that doctrine. And the ones that do oftentimes require plaintiffs to show that the retailer has violated a specific statute or regulation that is expressly designed to protect people from the misuse of guns. This means that if the seller has reason

to think a buyer may give the gun to a criminal but the sale complies with statutory formalities, like the background check, negligence per se would not apply. This is the reason why my amendment is essential.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentlewoman from Pennsylvania (Ms. HART) ask for time in opposition?

Ms. HART. I rise in opposition, Mr. Chairman.

The CHAIRMAN. The gentlewoman is recognized for 10 minutes.

Ms. HART. Mr. Chairman, I yield myself such time as I may consume.

Having lost the fight in Congress and in the States to deny the rights of law-abiding firearm owners and to prevent firearm ownership in general, the gun control lobby has pursued a novel path. They have begun to abuse the courts by filing frivolous lawsuits, which wastes time and money in attempts to ruin law-abiding manufacturers and dealers of lawful firearms.

In fact, the city of Boston has already voluntarily dismissed its lawsuit against the firearms industry, stating that during the litigation the city has learned that members of the firearm industry have a long-standing commitment to reducing firearm accidents and to reducing criminal misuse of firearms; and also stating that the city and the industry have now concluded that their common goals can be best achieved through mutual cooperation and communication rather than through litigation, which has been expensive to both industry and taxpayers, time consuming, and distracting in this time of national crisis. That is last year in Boston.

This bill would prevent such frivolous lawsuits while allowing suits for negligent entrustment and negligence per se, which are well defined in the bill. This amendment strikes at the specific negligence language and replaces it allowing any suit for general negligence, which is undefined in the amendment.

This amendment guts the bill, Mr. Chairman. It would leave it up to any judge across the Nation to make a decision whether or not to single-handedly conjure up any random, brand-new theory of negligence, a theory that could bankrupt our Nation's firearm industry, seriously harming our fundamental right to bear arms, and also creating thousands of new unemployed who formerly worked in the firearms industry.

It is a flawed amendment, Mr. Chairman; and it should be rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Look, there is no need for a definition of what negligence is in this amendment because negligence has been established in case law all across this country in all 50 States. All 50 States have case law that determine what the standard of negligence is. This particular underlying bill tends to undermine the States' ability for people to go into court and be made whole that are victims of negligence under those individual State laws.

Now, it may well be great in Boston that they decided not to follow through with a suit because it was frivolous. And I believe that to the extent that frivolous suits are dismissed, even against the gun companies, that is a fine thing and that is the way it should work. But let me give an example of why my amendment is necessary.

Let us take for example the case of Ken McGuire and David Lemongello, two New Jersey police officers who were shot in the line of duty and at this moment in time are seriously injured. These officers have filed a civil action against a West Virginia pawnshop that had a clerk sell 12 guns in one cash transaction to a suspicious straw purchaser. Twelve guns, cash transaction, suspicious straw purchaser.

In fact, the deal was so suspicious that after the sale the pawnshop later called the ATF to report the sale. Sure enough, this gun trafficker sold the gun illegally to a known criminal who shot Officer McGuire and Officer Lemongello. None of the so-called ''exception to immunity'' confirmed by the committee's mark would prevent their suit from being dismissed under this bill.

West Virginia law does not even recognize negligence per se, and the sale apparently complied with all of the relevant statutory requirements, even though the pawnshop's employee obviously thought the transaction was extremely suspicious. Their case would fail under the so-called negligent entrustment exception because they negligently sold guns to the straw purchaser, not the user of the gun.

The exception for knowingly or willfully would not apply because the standard of willful intent is extremely difficult to meet, and the bill seems to suggest that liability arises only where the seller has actual knowledge that the buyer intends to use the gun to commit a crime.

So this is just one example of why this amendment is needed in a case that I do not think anyone in this body would want to see dismissed because of the underlying bill in this case.

Mr. Chairman, I reserve the balance of my time.

Ms. HART. Mr. Chairman, I yield myself such time as I may consume.

The gentleman claims that the bill has too narrow an opportunity for a legitimate lawsuit to be heard. We have already heard from a court in his home State suggesting that the current situation is too wide open. The language in the amendment makes it probably about equal to what it is today. My question would be, What then do we do?

It is well settled that negligence per se is an accepted theory as well as negligent entrustment. It is clear that if a gun dealer sells a gun to someone who is a known criminal, that gun dealer would be liable under the bill. This amendment is, therefore, not necessary.

All of the frivolous lawsuits filed, however, have been under some type of general negligence theory. Many activists claim that manufacturers are negligent for not requiring extraordinarily burdensome and counterproductive schemes in addition to existing legal requirements. These activists may claim that any gun designed to suit the needs of gun buyers or the rules enacted by legislatures in our democracy, rather than their own policy preferences, is a sign of negligence. Some activists even claim that when the industry is successful in selling firearms in a specific region they are guilty of negligent oversupply and should reduce sales.

This bill is narrowly tailored to block these junk lawsuits while allowing legitimate causes of action, such as the gentleman described, to move forward. The Meehan amendment would unravel the logic of the bill and, therefore, take us back to square one where frivolous suits are out of hand.

Mr. MEEHAN. Mr. Chairman, will the gentlewoman yield?

Ms. HART. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, let me ask a question. What about the case of Ken McGuire and David Lemongello, two New Jersey police officers shot in the line of duty and seriously injured at this moment in time? They want to file a civil suit. Is that a frivolous case suit, and should they not have a right to go in a State court in New Jersey and have a judge hear the case and hear the facts of the case? And if the pawnshop is found guilty, should they not have a remedy in common law in New Jersey?

□ 1400

Ms. HART. If there is a theory under which the pawnshop is reasonably liable, yes. But just because there is injury does not mean that the seller of the firearm is liable. That is the theory that a lot of these frivolous suits are based on. There is no question that many people who file suits have legitimate injury. The question is, who is liable. In most of these cases, it is not the gun dealer that is liable.

Mr. MEEHAN. If the gentlewoman would continue to yield, what about this case? There is a pawnshop where somebody comes in and buys 12 guns, and they buy them all with cash and then go out and give them to known criminals. In fact, the person who sold the guns was so suspicious that they called the ATF and said, there was a guy in here who bought 12 guns, they gave me cash, and now they left.

Would the gentlewoman say that is more than a frivolous lawsuit?

Ms. HART. I would tell the gentleman, yes. In this country today, it is

required that there be background checks. It is required that those who purchase firearms use them properly. They are liable themselves if they do not use them properly, they are liable themselves if they sell them illegally, and the seller is liable if they sell them illegally.

Therefore, in the gentleman's case, there is no problem if they sell them legally.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

I would suggest that Officers Ken McGuire and David Lemongello from New Jersey have a right to have their case heard, and their case should not be thrown out because of this underlying bill, which would take away their right to be heard because somehow this person who sold the guns illegally did not have a background check. In this instance, the person who sold them was suspicious and they called the ATF. Maybe that example is not good enough, so let me provide another example of a suit against a negligent gun manufacturer.

Let us consider the manufacturers that supply weapons to dealers who repeatedly sell the guns to straw buyers, and then directly to violent criminals.

Robert Ricker, a former gun industry insider, has alleged that it is common knowledge within the gun industry that certain sellers routinely engage in straw purchases. Ricker says manufacturers know who the problem dealers are because they supply the data to the ATF that they use to trace the guns that are used back to retailers. I have not heard Mr. Ricker testify, nor have I had access to any of the discovery in any of these cases, but I think that is exactly why we need to allow the suits to proceed, to get to the bottom line what information gun makers and distributors have about how their firearms wind up being used in crime.

Under this bill, no jury will ever test the credibility of Mr. Ricker's statements, and we may never find out what kind of manufacturer data is about that shows patterns of criminal activity associated with specific retailers. Let us at least give an opportunity for the victims of crime, for the people of this country to hear whether or not Mr. Ricker's statements are credible and stand up in a court of law where a person has a right to be heard.

Mr. Chairman, I reserve the balance of my time.

Ms. HART. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

(Mrs. CUBIN asked and was given permission to revise and extend her remarks.)

Mrs. CUBIN. Mr. Chairman, I rise today in opposition to this amendment and all of the other amendments which have been offered today on this bill, and I encourage Members to vote against the amendments and for the bill.

I am the mother of two sons. One time when they were young, little boys, the boys and I were alone at night and we had a burglar break into our house. The fear that caused me to find out that someone had been in my house, rifling through my house, really made me take a look at self-defense and my right to own and bear arms. I became a big advocate of that at that time.

I appreciate all of the scenarios the other side is throwing out about why we need this amendment, because I agree, there are too many deaths due to gunshot wounds in this country. Too many children are dying because they are getting ahold of weapons that were legally owned, but were not taken care of correctly and were not separated from the ammunition. That is happening, and that is a problem. But these folks have entirely the wrong answer.

We need a common-sense, balanced answer to treating problems like this, and it does not involve taking away our second amendment, our right to own and defend ourselves. We not only deserve to be defended from terrorists home and abroad, but we also deserve to be able to buy guns to defend ourselves in our own home.

My sons are 25 and 30. They are blond-haired and blue-eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean if you go into a black community, you cannot sell a gun to any black person, or does that mean because my——

Mr. WATT. Mr. Chairman, I demand that the words of the gentlewoman from Wyoming (Mrs. CUBIN) be taken down.

The CHAIRMAN pro tempore (Mr. ISAKSON). The gentlewoman from Wyoming will suspend and will be seated. The Clerk will report the words.

□ 1415

For what purpose does the gentlewoman from Wyoming rise?

Mrs. CUBIN. Mr. Chairman, I wanted to point out that I did not break any rulings of the House, but I also want to point out just as a fellow Member that I certainly would never say anything or even think anything that would offend my neighbors on the other side, and well, obviously it did happen. So I would like to apologize to my colleague for his sensitivities, but certainly I would never do that. So I would like to continue on with my remarks. But the next question I wanted to ask is, does that amendment mean——

The CHAIRMAN pro tempore. The gentlewoman will suspend. Did the Chair correctly understand the gentlewoman's statement to say that the gentlewoman would withdraw the words?

Mrs. CUBIN. No, I will not withdraw the words.

The CHAIRMAN pro tempore. Did the Chair understand the gentlewoman to say that the gentlewoman apologized if the words were of offense to any Member of the House?

Mrs. CUBIN. Yes. Yes, I did apologize if the words were offensive to anyone in the House. But I will not say I broke rules of the House. I did not. I apologized because as a person I want to do that.

The CHAIRMAN pro tempore. The gentlewoman will suspend.

The Chair would ask the gentleman from North Carolina (Mr. WATT), the gentlewoman has apologized to anyone in the House to whom her words would have been offensive, and the gentleman has asked those words to be taken down. Does the gentleman insist on his position, or does the gentleman withdraw his demand?

Mr. WATT. Mr. Chairman, I do not need the gentlewoman to apologize for my sensibilities. She needs to be apologizing for using words that are insulting to the entire African American race. And if that is what she is doing, then I gracefully accept her apology. But if she is saying that this is somehow because I am sensitive to those words, then I will not.

Mrs. CUBIN. Mr. Chairman, I do not withdraw my words.

The CHAIRMAN pro tempore. For both Members' edification and the Chair's, it is the understanding of the Chair that the gentlewoman from Wyoming (Mrs. CUBIN) did not ask unanimous consent to withdraw her words. The gentlewoman from Wyoming (Mrs. CUBIN) did apologize to any Member in the House to whom there was offense.

Mr. WATT. That is not what she said, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman insist the words be taken down?

Mr. WATT. Mr. Chairman, I do insist, yes.

The CHAIRMAN pro tempore. The Clerk will transcribe and report the words.

The Clerk read as follows:

My sons are 25 and 30, they are blonde haired and blue eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean that if you go into a black community, you cannot sell a gun to any black person or does that mean because my——

The CHAIRMAN pro tempore. The Committee will rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. ISAKSON, Chairman pro tempore of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1036) 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, certain words used in debate were objected to and on request were taken down and read at the

Clerk's desk, and he herewith reported the same to the House.

The SPEAKER pro tempore. The Clerk will report the words objected to in the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

My sons are 25 and 30, they are blonde haired and blue eyed. One amendment today said we could not sell guns to anybody under drug treatment. So does that mean that if you go into a black community, you cannot sell a gun to any black person or does that mean because my——

The SPEAKER pro tempore. The Chair finds that the words are not unparliamentary under the rules and precedents of the House.

Mr. WATT. Mr. Speaker, I appeal the ruling of the Chair.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 195, answered ''present'' 1, not voting 11, as follows:

[Roll No. 119]

AYES—227

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—195

Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—1

Abercrombie

NOT VOTING—11

Boyd
Delahunt
Gephardt
Hefley
Houghton
Hyde
Lewis (GA)
Lucas (OK)
McCarthy (MO)
Ryun (KS)
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1453

Messrs. BISHOP of New York, CARSON of Oklahoma, and HALL changed their vote from ''aye'' to ''no.''

Mr. OXLEY changed his vote from ''no'' to ''aye.''

Mr. ABERCROMBIE changed his vote from ''no'' to ''present.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1036, with Mr. QUINN (Chairman pro tempore) in the Chair.

(Mrs. CUBIN asked and was given permission to speak out of order.)

STEREOTYPING IS ALWAYS WRONG

Mrs. CUBIN. Mr. Chairman, I do appreciate the Chair's ruling and the fact that it was upheld, but this is not something that I can just leave as it is, because I do not think that the situation that just occurred is good for the body, and it is not good for the individual people involved in it.

My words intended to state, and if I had been able to finish my sentence and my thought, they would have stated that I do not believe in stereotyping anyone, any time, ever, for anything. That is what I believe, and I believe that from the bottom of my heart. I do apologize, not just to the gentleman from North Carolina. I apologize to everyone who may have been hurt in any way or insulted because of my remarks. But I really intend only, only to make the point, and I will speak on this bill later, but to make the point that stereotyping is always wrong. It does not matter who it is; it is always a wrong thing to do.

I thank the Chairman, and I thank the gentleman for allowing me to have the time to address the body.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MEEHAN), who has 2 minutes remaining.

Mr. MEEHAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my amendment would not gut the underlying bill. It would still bar claims based on strict liability. Without my amendment, there is

no way to sue for negligence cases of straw purchases. Do not forget the case of Ken McGuire and David Lemongello, two New Jersey police officers who were shot in the line of duty and seriously injured. They filed a civil action in West Virginia because a pawnshop clerk sold 12 guns for cash to a straw purchaser. Those two police officers ought to have the right to have their case heard in court in West Virginia. This case would deny them, because the purchaser of the guns was a straw purchaser.

Ms. HART. Mr. Chairman, I wish to reserve the right to close.

Mr. MEEHAN. Mr. Chairman, I yield the remainder of my time to the gentleman from Rhode Island (Mr. LANGEVIN), a distinguished member of the Committee on Armed Services.

□ 1500

Mr. LANGEVIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I appreciate the efforts of the gentleman from Massachusetts (Mr. MEEHAN) to hold gun dealers and manufacturers truly accountable for negligence and strongly support his amendment.

Our Nation is familiar with cases of gun dealers who sell to criminals and claim ignorance about their intentions. Bullseye Shooter Supply, the Washington State gun dealer that was the source of the sniper rifle allegedly used by John Mohammed and John Lee Malvo in the D.C. sniper shootings, says it cannot account for that weapon, or 237 other guns in its inventory. We should be cracking down on deadbeat gun dealers, not exempting them from liability.

I have introduced legislation to improve enforcement and inspection of these facilities, and I thank the gentleman from Massachusetts (Mr. MEEHAN) for his support of that measure and for drawing attention to this matter with his amendment today.

I strongly urge my colleagues to support the Meehan amendment.

Ms. HART. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is not helpful to the cause that the gentleman appears to be seeking to address. The amendment actually removes the cause of action for negligent entrustment, which means that someone who should have known has entrusted a firearm to someone who is going to do damage with it.

This bill protects the right to sue for that reason. This bill protects the right to sue for negligence, per se. This bill is simply addressing an issue that is very widespread in this Nation, that is, suits that are intended to bankrupt gun dealers, gun manufacturers; and therefore, put out of business small business people and out of work many people across the Nation who depend upon a very strong firearms industry and recreational use of firearms, safe and legal.

Mr. Chairman, there is a better way to deal with the issue of illegal use of firearms, which is what the gentleman has cited in his examples. There is a better way to control gun crimes. These lawsuits do not help. These lawsuits, in fact, will bankrupt the companies that need to pay legitimate lawsuits.

We need to enforce the many gun laws that are currently on the books. I am proud to support Project Safe Neighborhoods, a proven and commonsense way to combat gun violence. Project Safe Neighborhoods is operating in 94 locations across the country. It is a network of Federal, State, and local law enforcement officials working together to fight gun crime. The program works. Increases in prosecution, over 20 percent, occurred last year.

We must combat gun crimes by enforcing our gun laws, that is what works, not with ridiculous and frivolous lawsuits. H.R. 1036, as it is, precludes frivolous lawsuits; it protects the rights of America's law-abiding manufacturers, dealers, and owners of firearms. It makes sure those who use them illegally, who sell them illegally, who offer them to someone else illegally are taken care of through the courts.

What we do here, Mr. Chairman, is create a bill that will allow legitimate suits, curb frivolous suits, and allow recovery by those who really need it.

The CHAIRMAN pro tempore (Mr. QUINN). All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. MEEHAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MEEHAN) will be postponed.

It is now in order to consider amendment No. 5 printed in House Report 108–64.

AMENDMENT NO. 5 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN pro tempore. The Clerk will designate amendment No. 5.

The text of amendment No. 5 is as follows:

Amendment No. 5 offered by Mr. WATT:

In section 2(a)(2), strike '', distributors, dealers, and importers''.

In section 2(a)(3)—

(1) strike '', importation, possession, sale, and use''; and

(2) strike ''are'' and insert ''is''.

In section 2(a)(4), strike '', manufacture, marketing, distribution, importation, or sale to the public'' and insert ''and manufacture''.

In section 2(a)(5), strike ''an entire industry'' and insert ''firearm and ammunition manufacturers''.

In section 2(b)(1)—

(1) strike '', distributors, dealers, and importers''; and

(2) strike ''or unlawful''.

In section 2(b)(5), strike '', distributors, dealers, and importers of firearms or ammunition products, and trade associations,'' and insert ''of firearms or ammunition products''.

In section 4(1), strike '', and, as applied'' and all that follows and insert a period.

In section 4(5)(A)—

(1) strike ''(A) IN GENERAL.—'';

(2) strike ''or seller of a qualified product, or a trade association,'';

(3) strike ''or unlawful'';

(4) strike clauses (i) and (ii);

(5) in clause (iii)—

(A) strike ''or seller''; and

(B) strike ''sale or marketing'' and insert ''design or manufacture''; and

(6) redesignate and indent clauses (iii) through

(v) as subparagraphs (A) through (C), respectively.

In section 4(5), strike subparagraph (B).

In section 4, strike paragraphs (6) and (8) and redesignate paragraph (7) as paragraph (6).

The CHAIRMAN pro tempore. Pursuant to House Resolution 181, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to my colleagues that the effect of this amendment would be to limit the application of this bill to manufacturers only.

As I said during the brief debate that we had in the committee, the Committee on the Judiciary, on this bill, there are, in fact, some manufacturers who are attempting to address concerns that the public has about gun safety. Some of them are trying to develop safety locks. Some are trying to develop computerized techniques for ownership identification.

If there is a rationale for this bill, which I do not believe there is, the rationale would be to reward those manufacturers who are acting responsibly. Unfortunately, the effect of this bill will be to reward them and incentivize them to act irresponsibly. I think that is a very, very unfortunate consequence of this bill.

On the other hand, most of the outrageous stories that we hear about irresponsibility are not necessarily about the manufacturers of guns; they are about dealers and sellers who refuse to acknowledge anything other than their own profit motives. They want, when someone walks into their store, when somebody walks into their pawnshop, when somebody approaches them with some money, they want that money and they do not care what happens after that. We have heard example after example after example of that kind of irresponsibility on the part of dealers.

Now, it is unfortunate that this bill covers not only manufacturers, it covers dealers, sellers, importers, the whole range of providers that put these guns into the stream of commerce. If there is any rationale for the bill, it is for the manufacturers.

I do not think we ought to be excusing irresponsible dealers, such as the dealer who ignored the frequent disappearance of guns from his inventory. One of hundreds of missing guns, which were never reported missing despite having been prominently displayed in the store, ends up being used in the sniper attacks in Washington. This bill would immunize that dealer from liability. That is irresponsible.

Mr. Chairman, let us have a debate about those manufacturers who are being responsible. I applaud their activities. Perhaps we could make a reasonable argument that they should be immunized from liability because they are making a product that is legal. I have heard that argument. I do not subscribe to it, but at least it has some credibility to it. But when we start immunizing everybody in the stream of commerce regardless of how responsible or irresponsible they are, that is where I draw the line.

Mr. Chairman, I would encourage a ''yes'' vote on my amendment, which limits the impact of this bill to manufacturers only.

Mr. Chairman, I reserve the balance of my time.

Mr. CANNON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Utah (Mr. CANNON) is recognized for 10 minutes.

(Mr. CANNON asked and was given permission to revise and extend his remarks.)

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Watt amendment strikes language throughout the bill protecting dealers and importers of firearms, as well as trade associations. Under the amendment of the gentleman from North Carolina (Mr. WATT), only firearms manufacturers would receive protection from lawsuits based on criminal misuse of their product by a third party. This amendment would gut the bill and the firearms industry.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

As one of the 250 cosponsors of H.R. 1036, the Protection of Lawful Commerce in Arms Act, I rise in strong support of this bill and against this amendment.

The right of law-abiding citizens to purchase and own firearms is guaranteed in the second amendment. Those behind these lawsuits have one aim, and that is to undermine the guarantee in the Bill of Rights.

As we speak, anti-second amendment organizations are shopping around for sympathetic judges who will be willing to rule that firearms manufacturers are liable for individuals using guns in the commission of crimes. While virtually every lawsuit brought against gun manufacturers has been thrown out of court, it is only a matter of time until a liberal judge, sympathetic to the anti-second amendment lobby, rules in their favor.

The aim of these suits is to tie up firearms manufacturers in court and raise the cost of firearms to those who purchase them legally. The only end result of these lawsuits would be a larger underground market in firearms.

Defenders in these lawsuits will say it is about justice for crime victims. The true impetus behind these lawsuits, however, is to bypass the Congress, the will of the American people, and to enact de facto gun control by using the courts.

Gun control advocates have come to realize that they have very little chance of moving their anti-second amendment agenda through Congress, so they have turned to excessive lawsuits and the courts. This legislation not only will not protect gun distributors who do not follow the strict laws regarding firearms; it will also not protect manufacturers that sell defective products. It merely protects firearms manufacturers who are abiding by the law from frivolous lawsuits designed to bankrupt legal, law-abiding gun manufacturers.

No one would think of holding GM responsible for an accident caused by a drunk driver, or Louisville Slugger responsible for someone using a baseball bat in the commission of a crime. So why should law-abiding firearms manufacturers be punished for criminals using their products illegally?

Mr. WATT. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Chairman, I want to thank the gentleman for yielding time to me. I rise to support the Watt amendment and to oppose passage of the irresponsible and shameful underlying bill.

Mr. Chairman, I fully understand that many sponsors of this bill have progun constituents who have been unrelenting in their blind fight to preserve and to expand their ability to bear arms.

I can appreciate the willingness of any Representative to consider the interests of his or her constituents. But, Mr. Chairman, what I cannot appreciate is the willingness of some to support legislation that so maliciously attacks the will of my constituents to bring legitimate actions before their individual State courts.

What I cannot appreciate is the unwillingness of the majority to allow consideration of amendments at committee. It is appalling and shameful that a bill which may have such far-reaching consequences for so many did not enjoy the consideration that it deserves. And what I cannot appreciate is the emboldened eagerness of some Representatives to sponsor legislation that so clearly places the special interests of the gun lobby ahead of the vital interests of the American people.

Mr. Chairman, I am aware that the sponsors of this bill closed the so-called ''negligent entrustment'' loophole. But if this bill is passed, no supporter, and I repeat, no supporter should walk away believing that the tragedies committed and contemplated under the original bill will not happen under this one.

I would ask the Members of this body to consider the case of an Illinois gun dealer who should have known that 72 mostly identical guns that he sold to an unlicensed gun trafficker were not for personal use. One of those guns was used by Benjamin Smith, a white supremacist who drove through Chicago and Indiana, randomly shooting blacks and Jews, including former Northwestern University basketball coach Ricky Byrdsong.

Indeed, Mr. Speaker, if this bill passes, we in Congress will be no better than the unscrupulous and irresponsible gun dealer who turned a blind eye to the violence and mayhem that his actions ultimately caused.

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to the gentleman from Illinois (Mr. RUSH), who calls this bill irresponsible and shameful, let me just point out that a gun dealer who does wrong things is still going to be liable under this bill. A very large majority of Members of this body have already cosponsored the bill, just in refutation.

Mr. Chairman, I yield 1 minute to the gentlewoman from Wyoming (Mrs. CUBIN).

□ 1515

Mrs. CUBIN. Mr. Chairman, I would like to point out that the laws we have in existence today are very, very adequate to take care of all the situations that have been brought up by Members on the other side if they are enforced.

The changes that need to be made in this country are to do things like to fund drug treatment programs, to fund the war on drugs, to help single parents be able to find time to give guidance to their children, to have doctors not be afraid to ask their patients if they have guns in their house, and if they have guns in their house, how do they store them. They ask every other health care issue about patients.

We need to change our society, and we need to acknowledge that gun ownership is not an unhealthy thing, but what is unhealthy is not enforcing the laws that we have on the books right now; and the laws that we have are totally adequate.

I urge my fellow Members to reject this amendment and support this bill and protect our second amendment rights.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I would like to thank the gentleman from North Carolina (Mr. WATT) for yielding me time.

As I sat here on the floor today, the spirit and the greatness of great trial

judges and great trial lawyers have been disparaged by a claim that we are just seeking dollars on behalf of our constituents and our clients.

I would say I support the amendment of the gentleman from North Carolina (Mr. WATT) because it does, in fact, limit the responsibility against manufacturers of guns and those who have made steps to cure the dilemma or the difficulty or the dangerousness of guns. But I would suggest that if the laws are sufficient, then give trial judges and give trial lawyers the ability to bring their claims on behalf of their clients and let us proceed as we have done. I support the Watt amendment.

Mr. CANNON. Mr. Chairman, I yield to myself such time as I may consume.

Mr. Chairman, in response to the gentlewoman from Ohio (Mrs. JONES), this is not about trial lawyers and their profits. That would come under the rubric maybe of asbestos where they are taking huge returns compared to the minor returns that the individuals are taking.

Mrs. JONES of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentlewoman from Ohio.

Mrs. JONES of Ohio. Mr. Chairman, I am only responding to the statement of another Member that disparaged the faith and loyalty of trial lawyers on the floor just before I got up.

Mr. CANNON. Reclaiming my time, this is not a bill that deals with that issue, let me point out for clarifications purposes, but it is about people who would destroy an industry using the thousand cuts of litigation.

Mr. John Coale, one of the personal injury lawyers suing the firearms industry, told The Washington Post: ''The legal fees alone are enough to bankrupt the industry.'' That is what is going on that we are trying to deal with here with this legislation.

Mr. Chairman, I yield 3¼ minutes to the gentleman from Florida (Mr. STEARNS), the author of the underlying bill.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Chairman, I thank my colleague from Utah (Mr. CANNON) for yielding me time.

Let me say to my colleagues that the grievances that you have perhaps with the way the rule was developed or the procedure is really not a reason to vote against this bill. And I rise against the Watt amendment.

Local dealers or distributors are often sued simply to prevent removal of a case to a Federal court. Should trade associations be sued under conspiracy theories of industry behavior? I mean, that would create a chilling effect on advocacy of their membership, their interests, their activity, which is clearly protected by the first amendment.

The Watt amendment would allow them to be sued, local dealers, trade association. So I think it is clear, the Watt amendment would actually hurt the bill.

Let me call your attention as we conclude this debate to my chart here which shows that 31 States have recognized the absurdity of these lawsuits which are no different from the ridiculous lawsuits we saw filed against many other cases including the food industry. The goal is to cease this attempt at regulation through lawsuits, and that is why these 31 State passed pretty much the same bill that we have here on the floor today.

The second chart I will show you examples where cases are dismissed. This is just one of many charts I could have up here, 30 or 40 cases. For example, in Bridgeport where 21 manufacturers and distributors and 12 dealers and three were sued for negligent distribution, deceptive advertising, defective design, nuisance, conspiracy and unjust enrichment, unjust enrichment. Now, they proceeded but when they got not too far along, they were dismissed. And the Supreme Court of Connecticut affirmed that.

So I would say to all my colleagues that the States have recognized this, and that is why there are 31 States that have supported the language in this bill.

Let me just read what the judge in the lawsuit against the firearm industry in the City of Bridgeport said. What has happened here, the people who are suing ''have envisioned the dawning of a new age of litigation.'' A new age of litigation, during which the gun industry, the liquor industry, the purveyors of junk food would follow the tobacco industry in reimbursing government expenditures. So taxpayers would have to pay at the local level, at the municipal level, at the State level to sue gun dealers, associations, gun manufacturers, all on the basis of unjust enrichment, deceptive advertising.

So I conclude, I believe this bill is responsible. Attempting to bankrupt a legal American industry through junk lawsuits is not. This bill protects legal actors while allowing suits to continue against those who break the law. It is a good balance, a fair bill; and I urge its passage.

The CHAIRMAN pro tempore (Mr. QUINN). The Chair would remind Members that the gentleman from North Carolina (Mr. WATT) has 2½ minutes remaining. The gentleman from Utah (Mr. CANNON) has 1¾ minutes remaining, and the gentleman from Utah reserves the right to close.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I am prepared to close if the gentleman does not have other speakers.

The CHAIRMAN pro tempore. Does the gentleman from Utah (Mr. CANNON) have further speakers?

Mr. CANNON. Mr. Chairman, I have one further speaker, and then I will close.

Mr. Chairman, I yield 30 seconds to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I rise in opposition to this amendment.

This amendments paints all dealers with a very broad brush. In fact, every one of us knows that all retail gun sales are subject to a Federal criminal background check, either directly by the FBI or by a system that the individual States use. If a dealer violates any Federal or State law on gun sales, it loses its protection under this bill. If retailers are sued out of business, the protection for the manufacturers would be absolutely meaningless. This is a blatant attack on our second amendment rights and on our law-abiding citizens.

The CHAIRMAN pro tempore. The gentleman from North Carolina (Mr. WATT) has 2½ minutes remaining.

Mr. WATT. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, let me say that if we want to protect dealers simply because they comply with the letter of the law, even though they know that they are making irresponsible decisions such as in the case of the officer, Officer Lemongello, who was shot by a gun that was sold by a dealer, they did follow all of the black letter of the law; but at the same time they knew that they were selling the guns not to the person who bought them, to the female person who bought the guns, but to the male person who was in there selecting the guns and identifying them. And they were so concerned that as soon as they walked out of the store they called ATF and said we have done something irresponsible, even though they had complied with the law.

Now, all we are trying to do is make dealers and everybody throughout the process be responsible. And if we want to immunize that kind of conduct, then, I mean, I guess you are going to vote for this bill. Because that is what it does. But I am telling you we are being irresponsible when we do that. And if we really want to reward people who are trying to deal with gun violence, then we cannot keep rewarding dealers who act irresponsibly knowing that they act irresponsibly, importers, sellers. Perhaps there is a rationale for protecting manufacturers who have demonstrated a willingness to try to act responsibly. Some of them are trying to do the trigger lock thing, trying to do computerized identification. I think this bill is going to set them back because basically once we pass this bill, they do not have any incentive to even continue to do that.

But if there is anybody who has a rationale, it perhaps is the manufacturers; and that is what this amendment would do, limit the effects of the bill to the manufacturers. I encourage my colleagues to support the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Utah (Mr. CANNON) has 1¼ minutes remaining, and he has the right to close.

Mr. CANNON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to point out we have heard much characterization of the dealer who sold the gun to the person who ended up getting the gun to the criminal who shot Officer Lemongello. Let me point out that if the characterization that has been overwrought and overstated by the opposition is correct, then there is a claim under the law that is not preempted by this bill for Mr. Lemongello to seek redress.

The fact is this bill does not take away the traditional common-law claims for negligent entrustment and violations of law. It only makes it clear that frivolous lawsuits cannot proceed erratically around the country.

Mr. Chairman, I would like to read two quotes to finish up. First of all, let me point out that the industry has been responsible.

When the city of Boston voluntarily dismissed its lawsuit against the firearms industry, they said, ''During litigation the city has learned that the members of the firearm industry have a long-standing commitment to reducing firearm accidents and reducing criminal misuse of firearms.'' And they go on and make further points.

So what is this bill all about? What is the litigation all about that we are trying to deal with in this bill. It is about what John Coale said: ''The legal fees alone are enough to bankrupt the industry.''

What we want to do is protect the industry in America. I urge the Members to vote against this amendment and other amendments and support the underlying bill.

Mr. HASTINGS of Florida. Mr. Chairman, this legislation is part of a gun industry effort to preempt cities and counties across the United States from exercising their legal right to reform dangerous gun industry practices. Worst yet, under the measure, any case pending at the time of enactment would be dismissed. I support the amendment proposed by Representative Watt because it will restore an individual plaintiff's ability to pursue all currently accepted product liability causes of action. Thus, existing gun victims will be allowed to exercise their right to a day in court. It will further the goals of this civilized society, which is based on the rule of law.

There are many examples—from the lawsuit brought because Ford Pintos were exploding to the toxic pollutant cases against Pacific Gas & Electric made famous in the movie ''Erin Brockovich''—that individuals can get justice in a courtroom from the reckless and irresponsible actions of gunmakers and dealers. But if H.R. 1036 is enacted into law without this amendment, cases such as these will immediately after enactment be thrown out of court.

The pending case filed by Pamela Grunow, a resident of Palm Beach County, would also be immediately dismissed. On May 26, 2000, 13-year-old student Nathaniel Brazil shot and killed his language arts teacher Barry Grunow at Lake Worth Middle School, in my district. Pamela Grunow is seeking to hold the distributor of the gun responsible for selling an unreasonably dangerous and defective product. My colleagues, we do not know better than the state governments legislating on this issue, or the judges listening to these lawsuits.

The Majority, encouraged by a forceful and wealthy industry, is pushing Congress to enact a disastrous bill to give gunmakers and dealers extraordinary shelter from liability suits. Without this amendment, gun victims will be harmed by the federal legislature. The Watt amendment will not fix the underlying bill, but will make it more responsible in the short term. I thank the Congressman from North Carolina for his efforts, and I encourage my colleagues to support this amendment.

Mr. CANNON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was rejected.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 by Mr. SCOTT of Virginia, amendment No. 3 by Ms. LINDA T. SÁNCHEZ of California, amendment No. 4 by Mr. MEEHAN of Massachusetts.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote of this series.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the request for a recorded vote on amendment No. 2 by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 278, not voting 8, as follows:

[Roll No. 120]

AYES—148

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gutierrez
Harman
Hastings (FL)
Hinojosa
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—278

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher

Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Berry
Boyd
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Peterson (PA)
Ryun (KS)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN) (during the vote). Members would be reminded they have 2 minutes in which to cast their votes.

□ 1548

Messrs. BARTLETT of Maryland, WELDON of Florida, REYNOLDS, BROWN of South Carolina, and BELL changed their vote from ''aye'' to ''no.''

Messrs. KLECZKA, THOMPSON of California, VISCLOSKY, and KIRK changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. QUINN). Pursuant to clause 6 of rule XVIII, the remainder of this series will all be conducted as 5-minute votes.

AMENDMENT NO. 3 OFFERED BY MS. LINDA T. SÁNCHEZ OF CALIFORNIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 134, noes 289, not voting 11, as follows:

[Roll No. 121]

AYES—134

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Grijalva
Gutierrez
Hastings (FL)
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Ramstad
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Solis
Spratt
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—289

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Boyd
Cooper
Houghton
Hyde
Lewis (CA)
Lewis (GA)
Lucas (OK)
McCarthy (MO)
Meeks (NY)
Peterson (PA)
Ryun (KS)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members will be reminded there are 2 minutes remaining in this vote. Two minutes, please.

□ 1556

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. DELAURO. Mr. Chairman, I inadvertently voted ''no'' on rollcall vote No. 121 today. I would like the RECORD to reflect that I intended to vote ''aye.''

AMENDMENT NO. 4 OFFERED BY MR. MEEHAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from Massachusetts (Mr. MEEHAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 144, noes 280, not voting 10, as follows:

[Roll No. 122]

AYES—144

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin

Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gephardt
Gonzalez
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rothman
Roybal-Allard
Rush
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (WA)
Snyder
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—280

Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Aderholt
Boswell
Boyd
Houghton
Hyde
Lucas (OK)
McCarthy (MO)
Peterson (PA)
Ryun (KS)
Solis

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. QUINN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1604

Mr. KELLER changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SENSENBRENNER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. QUINN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1036) 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, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1708

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILCHREST) at 5 o'clock and 8 minutes p.m.

EXTENDING AVAILABILITY OF CONTINUING EXPENSES OF STANDING AND SELECT COMMITTEES OF HOUSE THROUGH MAY 9, 2003

Mr. NEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 185) extending the period of availability of amounts for continuing expenses of standing and select committees of the House through May 9, 2003.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. GILCHREST). Is there objection to the request of the gentleman from Ohio?

Mr. LARSON of Connecticut. Reserving the right to object, Mr. Speaker, we have no objection. We are in concurrence.

Mr. Speaker, I withdraw my reservation of objection.

The Speaker pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 185

Resolved, That House Resolution 163 (agreed to March 26, 2003) is amended by striking ''April 11, 2003'' and inserting ''May 9, 2003''.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 181 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1036.

□ 1710

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1036) 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, with Mr. BASS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 4 printed in House Report 108–64 offered by the gentleman from Massachusetts (Mr. MEEHAN) had been disposed of.