whether the assassins were out here in Washington, DC. One woman who was an employee of the FBI and was walking in the parking lot of Home Depot in suburban Virginia was shot. Those families, those victims, could not have come to the court of justice if this bill passed.

There are other suits that are pending today. There is a case in Massachusetts, where a young man, Danny Guzman, an innocent bystander, was shot and killed in front of a nightclub in Worcester. Six days later, police recovered a 9 mm Kahr Arms handgun without a serial number behind an apartment building, near where Mr. Guzman was shot. In fact, I am told a 4-year-old child discovered the weapon first. Ballistic tests determined that the gun was the one used to kill Danny Guzman.

This gun was one of about 50 guns that disappeared from Kahr Arms' manufacturing plant. Some of the guns were removed from the plant by employees that Kahr Arms hired despite criminal records and histories of drug addiction. The case is being pursued now. The issue is not what Mr. Guzman did. It is what this company failed to do. They failed to have background checks on employees who handled weapons. They failed to have security devices that would monitor if these weapons would be taken out of Kahr Arms. I am told, interestingly enough, Kahr Arms is owned by a holding company for the benefit of the Reverend Sun Myung Moon's Unification Church. So one of the beneficiaries of this bill, if it passes, will be Reverend Moon's financial enterprises because they will be protected from allegations of recklessness, not just negligence.

Now, the first exception to the bill is title 18 United States Code section 924(h). This simply permits cases against sellers who sell guns they know will be used to commit a violent or drug trafficking crime. First, in the Kahr case, the guns were not sold; they were taken surreptitiously out of the factory. This exception would not apply.

Second, you have to show they knew that the guns would be used to commit a violent or drug trafficking crime—not that they were negligent in allowing guns in circulation, but that they had to know they would be used in a violent or drug trafficking crime.

The next exception is negligent entrustment. This applies where a gun dealer knows, or should know, that a purchaser will shoot someone with the gun, and that individual shoots a person. This exception only applies to a gun ''seller.'' Once again, Kahr Arms was not, in this situation, a seller. Moreover, Kahr Arms did not entrust its guns to its employees. Rather, Kahr's employees removed the guns from the plant because of Kahr's negligent security, inventory tracking, and hiring of employees with histories of criminal conduct and drug addiction. So that exception doesn't apply.

There is another exception, negligence per se. Under this provision, gun sellers whose negligence causes injury could not be liable unless, at a minimum, they also violated a law or regulation which the court found an ''appropriate basis'' for a negligence per se claim and which proximately caused the injury. The exception only applies to a gun seller, and the bill defines sellers to include only importers or dealers, not manufacturers.

Moreover, in many States—and Massachusetts is one—negligence per se claims are not allowed under their practice and, therefore, the exception would not apply.

Knowing violation of the law exception: This exception applies where a gun seller or manufacturer knowingly violates a State or Federal statute when it makes a sale that leads to an injury. Here, Kahr Arms did not violate statutes related to the sale or manufacturing of a gun. Rather, Kahr's employees surreptitiously took the guns out.

Breach of contract or warranty exceptions once again do not apply. It merely allows gun purchasers to sue if the seller or manufacturer did not provide the product or service it promised in its sales contract. This exception clearly does not apply.

Defective design is a narrow exception for actions for some deceptive design or manufacturing cases. But that exception does not apply.

Rather than being legislation that allows the good suits through and the frivolous ones out, this legislation effectively denies people, such as the family of Danny Guzman, their day in court, and many others. It would have denied the two police officers from New Jersey their day in court. It would have denied the victims of the snipers their day in court.

For these reasons and many others, I am opposed to the legislation and join others who are and look forward to continuing our discussions in the hours and days ahead.

Mr. SESSIONS. Mr. President, I thank my able colleague and will say, it is such a state we are in America that a company whose employees steal the guns and go out and shoot somebody with them gets sued for it. That is a fact of what my friend is saying, that these companies ought to be sued as a result of the theft of a gun by their employees.

If the law required them to do a background check and they failed to do so, they clearly would be liable under this act. The fact of filing off a serial number is, in fact, a criminal offense for which I have prosecuted quite a number of criminals. In addition, it would trigger, of course, a civil liability.

Gosh, we can talk about it a lot, and I will be glad to continue to discuss it, but the basic fact is a lot of these lawsuits are claiming that if they know, if manufacturers or distributors or sellers either know or should know that some guns will be used illegally, they should be responsible for it. That is not good law. This is against what we are about in this country.

All this legislation does is say if you sell the firearm according to law, if you manufacture it according to law and somebody commits an intervening criminal act with it and shoots somebody, you should not be sued. But we have this anti-gun crowd which doesn't care about general principles of law that have stood us in good stead for hundreds of years. They have learned to manipulate the matter as effectively as they can to maintain lawsuits. The letter from Beretta I read earlier indicates that in the District of Columbia, the gun manufacturers who sold a gun in Minnesota and it was transported some way to Washington, DC, and was used in a crime and somebody was shot, the gun manufacturer is liable for that. And, in fact, that one jurisdiction that allows that kind of lawsuit can be enough to take down every gun manufacturing company in the United States. They have had some tough years and a lot of litigation going on.

Mr. President, I have spoken again, and unless my colleague would like to reply, we will close. It has been a good debate, and I have enjoyed it.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MAJOR GENERAL JOHN W. HOLLY

Mr. STEVENS. Mr. President, I come to the floor today to recognize the service of an outstanding leader and public servant. After more than 32 years in uniform, MG John W. Holly will soon retire and move into private life.

Four years ago, Major General Holly was appointed Program Director of the Joint Program Office of Ground-Based Midcourse Defense. For the past year he has also served as the Deputy Director of the Missile Defense Agency, overseeing the direction of all other ballistic missile defense programs in the agency.

The Ground-Based Midcourse Defense System is not your run-of-the-mill weapons program. It is virtually global in scope, spanning 12 time zones, from the United Kingdom to the outer reaches of the Aleutian Islands. It has required upgrades to early warning radars from the Cold War era and the development of the most advanced seagoing X-band radar ever built; this equipment was then linked with communication centers throughout the United States and firing sites in Alaska and California. This effort has also