

considered a public nuisance in American jurisprudence.

One such suit that S. 397 will stop is the suit by the District of Columbia and nine individual plaintiffs who have sued members of the firearms industry under a District statute that, unbelievably, imposes automatic and absolute liability. The statute in question says a manufacturer is liable "without regard to fault or proof of defect." There is also a case pending in Federal court in the District of Columbia in which a gun manufacturer is being sued under this very same statute—*Charlot v. Bushmaster*. The companies being sued under the District "automatic" liability law have no defense.

Another example is the case of *Ileto v. Glock*, in Federal court in Los Angeles, CA, against a manufacturer and a distributor who are being sued over a criminal shooting. The facts, if you can believe it, are that the manufacturer, Glock, sold the pistol later criminally misused, to a Washington State police department and the distributor being sued never owned, sold, nor possessed the firearm that was criminally misused.

Yet another example is the cases of *Hernandez v. Kahr Arms* and *Maisonet v. Kahr Arms* pending in State court in Massachusetts. Here a manufacturer, Kahr Arms, whose products are used by law enforcement across America, is being sued for a criminal shooting at a well-known gang hangout with a long history of drug use, drug dealing and violence. The criminal shooting was committed with an unfinished, but functioning firearm assembled from individual parts that were stolen from the factory over time by an ex-employee. Following the incident, James A. McNally of the ATF Boston Field Office told the local newspaper that theft from reputable gun manufacturers such as Kahr Arms is relatively rare. He went on to say, "[Kahr Arms] is the victim. They're not the problem."—*Worcester Telegraph & Gazette* at p. 1, March 18, 2000.

There is also a pending suit against members of the firearms industry by the city of Gary, IN, even though the State of Indiana has itself passed a State law similar in purpose and intent to S. 397.

In the days leading up to the Senate debate this summer lawyers from antigun interest groups rushed to the courthouse to file at least three such lawsuits, one in New York and two in Pennsylvania. There are reports that still more baseless lawsuits have been filed just this week.

Congress is properly acting here under its Commerce Clause powers, as we have done many times in the past. We are also rightly concerned, as is the Department of Defense, that if these lawsuits succeed in driving gun manufacturers out of business, the national defense will be harmed. The same is true for our homeland security, as these same companies make the firearms used by law enforcement. It is our obligation to take steps to protect a vital component of our national defense infrastructure—America's "Arsenal for Democracy."

The Constitution imposes upon Congress the duty to protect the second amendment and the right it provides to individuals to "keep and bear arms." This right will be a mere illusion if firearms manufacturers are driven out of business by predatory lawsuits.

Mr. Speaker, let me continue to be clear here as to the purpose and intent of this bill

so that creative lawyers cannot later try to come up with a creative argument to wiggle around this bill.

For instance, the intent of Congress and this bill cannot be evaded or avoided by, for example, claiming that a public nuisance suit against manufacturers or sellers is based on criminals who unlawfully or criminally possess firearms but who may have not discharged them in the commission of a crime. In other words, as the author of this legislation, I want my colleagues and our fellow Americans to understand that, under the Protection of Lawful Commerce in Arms Act, a "Qualified Civil Liability Action" covers criminal/unlawful possession, that includes, as used in the act, "misuse means and includes possession".

I would also like to use this opportunity to clear up some other concerns and misunderstandings. Some have asked, "Does the language in section 5 create new civil liability for a gun owner, if the person does not use a 'secure gun storage or safety device' and the person's gun is stolen and misused?" I would say quite forcefully that the answer is a resounding "No." The fact is, there are almost no cases finding gun owners liable for misuse of stolen guns. Both the theft and the later crime are "superseding acts" that "break the chain" of causation under traditional tort law.

I would tell my colleagues that the only way section 5 could create liability would be if a court thought it created a new duty or a new standard of care for gun owners. However, the language specifically states that it does not "create a cause of action against any Federal firearms licensee or any other person for any civil liability [or] establish any standard of care."

Finally, compliance or noncompliance could not even be used as evidence, except against a dealer who failed to sell the required locks, or by a gun owner who wanted to present his use of a safety device as a defense against a civil suit. On that point, section 5 provides a new defense, not a new line of attack.

The purpose of the liability protection language in section 5 is to address gun owners' concern that the "secure gun storage or safety device" requirement would expose them to a new kind of lawsuits. The language neither creates nor eliminates liability for gun owners who use safety devices; in effect, it leaves the common law rules unchanged for those gun owners.

If individual gun owners' liability for stolen guns becomes a major national issue like the suits against the industry, it could be the subject of additional legislation. The Indiana legislature changed Indiana law to prevent exactly this type of lawsuit after a court decision opened that door.

Mr. Speaker, I have made these remarks to ensure that anyone trying to evade the letter and spirit of this legislation will have as little "wiggle room" as possible. It is my hope that I have done just that.

SALUTE TO HURRICANE
VOLUNTEER GARY LOUDERMILK

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 2005

Mr. BURGESS. Mr. Speaker, I rise today to salute those individuals and organizations that

opened their hearts and dedicated both financial and emotional support to the evacuees of Hurricane Katrina and Hurricane Rita. All of the States along the gulf coast have endured terrible hardships during this hurricane season, and I know that the generosity of North Texans played a vital role in bringing some peace into their lives.

Today, I want to specifically thank one man and his donation. Gary Loudermilk, the Executive Director of the Denton Baptist Association, helped provide Hurricane Katrina evacuees with a place to stay at Camp Copass.

Camp Copass is a known as Texas' first "Full-Service" Baptist camp. They normally provide summer camp for kids of all ages, but during this time of need, they donated their time, space and money for Katrina evacuees.

I stand here today to sincerely thank Gary Loudermilk for his donation. It is people like him that I am proud to call a fellow Texan. Through his contribution, he not only stands as a devoted and giving American citizen, but he serves as an inspiration to others.

HONORING THE OLDER WOMEN'S
LEAGUE ON ITS 25TH ANNIVERSARY

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 2005

Ms. MATSUI. Mr. Speaker, I rise in tribute to an organization with a great record of service to older and midlife women throughout the United States. For the past 25 years, the Older Women's League has worked tirelessly and successfully to protect and improve the economic, health and social equity needs of aging women. I ask all of my colleagues to join me in saluting the 25th anniversary of the Older Women's League, the only national grassroots organization in America to provide a voice to the over 58 million American women who are over the age of 40.

Founded in 1980 following a White House Mini-Conference on Older Women in Des Moines, Iowa, the Older Women's League (OWL) has grown to over 40 local chapters and 4,500 members nationwide. The members of these local OWL chapters engage in nationwide education and advocacy campaigns to place issues of interest to older women in the public spotlight and on the legislative agenda.

OWL members have worked diligently to highlight key older women's health issues including the Medicare prescription drug benefit, mental health awareness, osteoporosis and better nutrition. In addition, the organization has launched a recent campaign geared toward women of all ages, entitled "Social Security Matters." This campaign educates women on the importance of Social Security and why privatization could jeopardize their retirement.

Perhaps one of the most important initiatives that OWL undertakes each year is the OWL Mother's Day Report. The first OWL Mother's Day Report was released shortly after the organization's inception and provides an in-depth analysis of a particular matter of concern to older and midlife women ranging in subjects from Caregiving to Age and Sex Discrimination in America's Labor Force.

Another important accomplishment for which OWL has been nationally recognized has