



Legislation Text

File #: Res 0811-2003, **Version:** *

Res. No. 811

Resolution urging the United States Congress to reject S. 659 and H.R. 1036, legislation which seeks to grant the gun industry special protections against legal action.

By Council Members Yassky, Brewer, Comrie, Fidler, Foster, Gerson, Jackson, Koppell, Liu, Monserrate, Nelson, Recchia, Serrano, Weprin, Moskowitz, Quinn, Gennaro, Gioia, Sanders and James

Whereas, Nearly 30,000 Americans and more than 1,000 New York citizens die from gun violence in this country each year; and
Whereas, Gun manufacturers and sellers are already exempt from federal consumer product safety regulation and the only other product that enjoys such an exemption is tobacco; and
Whereas, The State of California in 2002, recognizing that an immunized gun industry lacks the motivation to avoid negligent or reckless behavior and creates grave dangers to the general public, repealed its 20-year old gun industry immunity statute, restoring the rights of victims of gun industry negligence to seek redress in court; and
Whereas, Robert Ricker, who worked as an attorney for the National Rifle Association in the 1980s and later as an executive director for the American Shooting Sports Council, has testified to the "see-no-evil, hear-no-evil, speak-no-evil mentality of the gun industry"; and
Whereas, Congress has proposed legislation, S. 659 and H.R. 1036, which would take away the rights of gun victims by prohibiting qualified civil liability actions from being brought by the Federal Government, States, municipalities, and private interest groups and individuals in any Federal or State court; and
Whereas, The proposed federal legislation would deny the legal rights of current and future gun violence victims seeking to hold the gun industry accountable for irresponsible manufacturing and selling practices by giving an unprecedented special immunity from lawsuits to gun sellers; and
Whereas, Such a law would make it impossible for plaintiffs to seek justice; for example, in the case of Halberstam v. S.W.Daniel, Inc. in 1997, the Halberstam plaintiffs, as described in a recent Brooklyn Law Review article, "overcame three previously insurmountable doctrinal obstacles. . . in negligent marketing claims against firearm manufacturers," the first of which was "a long-standing refusal by courts to apply negligent entrustment doctrine to firearms manufacturers"; and
Whereas, Such legislation puts American law enforcement officers, like former Orange County Detective Kenneth McGuire, who is currently proceeding with a lawsuit against a West Virginia gun dealer after having been shot while on duty by a career criminal, in danger by reckless gun sales practices and strategies; and
Whereas, The NAACP's pending case against the gun industry alleging that negligent marketing practices by gun manufacturers and distributors fuel street violence that victimizes minorities and that gunmakers knowingly sell their products to corrupt dealers who supply criminals would be made invalid by the proposed legislation; and
Whereas, Nearly 30 suits against the gun industry across the country contend that some manufacturers' firearms are used in crimes so frequently that their sales strategies amount to a violation of the public's safety and peace, to which the marketing director of TEC-9 manufacturer Navegar, Inc. replied (as he did to a New York Times reporter when confronted with evidence of the guns' disproportionate use in crime), "I'm kind of flattered. It just has that advertising tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales oriented"; now, therefore, be it
Resolved, That the Council of the City of New York urges the United States Congress to reject S. 659 and H.R. 1036, legislation which seeks to grant the gun industry special protections against legal action.

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