



The Honorable Mike Lee

THE PROTECTION OF LAWFUL COMMERCE IN ARMS ACT JURISDICTION ACT

The Protection of Lawful Commerce in Arms Act Federal Jurisdiction Act would amend the Protection of Lawful Commerce in Arms Act (PLCAA)¹ to include an independent basis for removing frivolous lawsuits against firearms manufacturers to federal court, especially those predicated on illegal use of their products by unrelated third parties.

Background:

Enacted in 2005, the Protection of Lawful Commerce in Arms Act provides a defense for gun manufacturers and dealers to use against frivolous suits when their products are legally manufactured and sold, but later used to commit crimes. However, because the PLCAA does not contain an independent basis for removal to federal court, state courts must look to the federal question jurisdiction statute (28 U.S.C. 1331) triggering the “well-pled complaint rule”. The “well-pled complaint rule” requires that the statutory basis for removal under 28 U.S.C. 1331 be found on the face of the complaint filed by plaintiffs.² Any answer or defense raised by the defendant is an insufficient basis for removal to federal court. This contrasts with the broader requirement of only a federal ingredient in either the claim or defense for Article III jurisdiction under the Constitution. State Attorneys General and plaintiffs have become creative in ensuring that complaints filed in state court do not trigger the well-pled complaint rule’s requirements for removal to federal court under the PLCAA. This necessitates adding an independent basis for removal of lawsuits against defendants who qualify for PLCAA protections.

Solution:

The Protection of Lawful Commerce in Arms Act Jurisdiction Act adds a provision to the PLCAA stating that cases filed in state court which meet the requirements for protection under the PLCAA can be removed to federal court so that gun manufacturers and dealers can qualify for the liability protections created by Congress. This legislation would further the PLCAA’s goal of ending abusive, frivolous litigation by reducing forum shopping and other attempts to weaponize our legal system against the firearms industry.

Congresswoman Harriet Hageman is carrying the House version of the bill. For further information or to cosponsor, please contact Coy Westbrook at Coy_Westbrook@judiciary-rep.senate.gov.

¹ 15 U.S.C. §7901, et seq.

² *Louisville & Nashville Railroad v. Mottley*, 211 U.S. 149 (1908).