



2A Maryland

2A@2AMaryland.org

Senate Bill 0488

**Civil Actions – Public Nuisances – Firearm Industry Members
(Gun Industry Accountability Act of 2024)**

UNFAVORABLE

This Bill has nothing to do with public safety or crime prevention, or a reduction in the illegal possession and use of firearms in criminal activity. It is an unjustified and blatant economic attack on the legal firearms industry as a whole and by extension those law-abiding citizens who enjoy the legitimate use of firearms.

Violence is behavior, not technology. It is a deep-rooted social problem for which there is no technological solution. Destroying the firearms industry through a barrage of groundless civil actions will not enhance public safety. However, it would spawn a black market manufacturing and distribution industry similar to bootleg alcohol as happened during Prohibition a century ago.

"For every complex problem there is an answer that is clear, simple, and wrong."

– H. L. Mencken

"Those who cannot remember the past are condemned to repeat it."

– George Santayana, *The Life of Reason*, 1905.

The firearms industry is one of the most heavily regulated industries in the nation. These regulations extend from the manufacturer through the distribution to the licensed dealers and ultimately to the consumers.

To understand the full extent and breadth of this Bill it is necessary to understand how many and varied items are included under the definitions. On page 2, §3-2301 (A) thru (E) define the persons, entities and items which fall within the scope of this Bill. Firearms top the list followed by "firearm accessories" which are broadly defined:

§3–2301 (2) "FIREARM" INCLUDES AN ANTIQUE FIREARM AS DEFINED IN §4–201 OF THE CRIMINAL LAW ARTICLE.

Antique firearms are not classified as firearms under Federal law and are thus not eligible for background checks via the Federal NICS system and its use is limited to firearms background checks only. To use NICS for a background check on an antique firearm is a Federal crime.

§3-2301 (C) “FIREARM ACCESSORY” MEANS AN ITEM THAT IS SOLD, MANUFACTURED, DISTRIBUTED, IMPORTED, OR MARKETED TO BE ATTACHED TO A FIREARM.

“Firearm Accessories” as defined under §3-2301 (C) are then included under the definitions of “Firearm Related Product:”

§3-2301 (E) “FIREARM-RELATED PRODUCT” MEANS A FIREARM, AMMUNITION, A COMPONENT OR PART OF A FIREARM, OR A FIREARM ACCESSORY THAT IS:

- (1) SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE STATE; OR**
- (2) INTENDED TO BE SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE STATE; OR**
- (3) POSSESSED IN THE STATE, IF IT WAS REASONABLY FORESEEABLE THAT POSSESSION WOULD OCCUR IN THE STATE.**

An even broader net is cast under the definition of “Firearm Industry Member:”

§3-2301 (D) “FIREARM INDUSTRY MEMBER” MEANS A PERSON ENGAGED IN THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT.

Pictured below is a cable safety lock of the type supplied free of charge by the National Shooting Sports Foundation (NSSF) and available to the public at thousands of police stations across the Nation. The lock depicted was obtained from the Parkville Precinct of the Baltimore County Police Department. Under the provision of SB 488, the following apply to this safety device:

- It is a “Firearm Accessory” because it was designed for use on a firearm or attached to a firearm. **§3-2301 (C)**



- It is a “Firearm-Related Product” under the definitions in **§3-2301 (E)** because it is a “Firearm Accessory” as defined by **§3-2301 (C)**
- Because it is a “Firearm-Related Product” as defined by **§3-2301 (E)**, the following organizations and persons are “**Firearm Industry Members**” per **§3-2301 (D)**:
 - Leapers , Inc. who manufactured the safety lock.
 - The distributor who shipped the safety lock
 - The common carrier who delivered the safety lock, e.g. FedEx, United Parcel Service, United States Postal Service, Amazon, or similar entity
 - The police officer who gave the safety lock to the citizen
 - The Baltimore County Police Department who employed the officer
 - Any citizen who in turn transfers the safety lock to a another person.

The manufacture, distribution, market or sale of the following and similar non-regulated parts defines a person as a **“Firearm Industry Member”** and a potential target for nuisance lawsuits.



Front Sight



Rubber Muzzle Caps



Web Sling for Rifle



Sling Mounting Bracket & Sling Loop



Rubber Lens Covers for Optical Sight



Trigger Guard for Rifle



Sight Mounting Bracket



Rifle Butt Plate – including Screws

Despite all the existing state and federal regulations, SB 0488 creates an array of parallel regulations that must be followed creating a scenario primed for abuse. Anyone who decides that in their personal opinion, some member of the industry failed to be clairvoyant and foresee some possible outcome that person is then empowered to file a lawsuit against the “Firearm Industry Member or Members.” Not only empowered but legally required and presumably entitled to assistance from the Attorney General.

§3-2301 (3) TO ENSURE THAT THE FIREARM INDUSTRY MEMBER COMPLIES WITH ALL PROVISIONS OF STATE AND FEDERAL LAW AND DOES NOT OTHERWISE PROMOTE THE UNLAWFUL SALE, MANUFACTURE, ALTERATION, IMPORTATION, MARKETING, POSSESSION, OR USE OF A FIREARM-RELATED PRODUCT.

Under this section, gunsmiths who perform simple alteration of firearms such as improving the accuracy of a firearm by improving the feel and function of a trigger on a target rifle or pistol will now be vulnerable to lawsuits.

§3-2303 (B)(3)(I) PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION SHALL NOTIFY THE ATTORNEY GENERAL THAT THE PERSON HAS BROUGHT THE ACTION WITHIN 5 DAYS AFTER FILING THE COMPLAINT.

(II) THE PERSON SHALL PROVIDE THE ATTORNEY GENERAL WITH A COPY OF THE COMPLAINT AND ANY OTHER DOCUMENTS OR PLEADINGS FILED WITH THE COMPLAINT.

The Fiscal and Policy Note confirms the intent of the bill is to include the Attorney General of Maryland in any lawsuit brought, no matter how frivolous. Additionally, the Attorney General becomes a for profit entity in the same manner as thousands of other lawyers seeking to profit from the awards in so-called product liability and negligence lawsuit industry.

State/Local Fiscal Effect: OAG advises that it lacks sufficient personnel to bring, manage, and litigate claims under the bill and that it estimates the need for one assistant Attorney General and one paralegal, with estimated general fund expenditures of \$207,816 in fiscal 2025 (which assumes a hiring date of October 1, 2024), and at least \$252,200 annually thereafter. However, OAG acknowledges that the need for staff depends on how many civil actions are actually filed. The Department of Legislative Services (DLS) advises it is unable to reliably predict the extent to which civil actions may be filed (and the corresponding need for any additional staff). It is likely that a small number of additional actions can be accommodated without hiring new staff; however, to the extent that OAG uses its authority under the bill to pursue more robust enforcement of violations, general fund expenditures increase. For illustrative purposes only, general fund expenditures associated with the hiring of one assistant Attorney General total

approximately \$140,000 annually. Although the bill takes effect June 1, 2024, it is assumed that any potential expenditures are not incurred until fiscal 2025.

Although the bill may result in additional civil actions filed, the bill is not anticipated to materially impact the workloads of the circuit courts and the District Court.

Because OAG may seek specified relief under the bill, including compensatory and punitive damages and reasonable attorney's fees and costs, general fund revenues may increase to the extent that such relief is awarded by the courts and allocated to the State. However, DLS is unable

to reliably estimate the magnitude of any potential revenues in advance. This analysis does not account for how (or if) any such awards received by the State may be further directed to other entities.

The Fiscal and Policy Note further confirms the intent of the bill is to produce a chilling economic effect on any businesses involved in the lawful commerce of legal and in some instances, highly regulated products.

Small Business Effect: *The bill has a potential meaningful effect on small businesses that encounter additional litigation, liability, and potential increased costs for insurance coverage as a result of the bill's provisions.*

Unlike existing statutes which contain a "mens rea" provision, this Bill permits anyone to bring a lawsuit even when the industry member acted in good faith and compliance with the current statutes. In essence, the legal action is borne of "you are guilty and liable because I say you are guilty." In keeping with the punitive nature of this Bill, there is no provision protecting the firearms industry by holding the plaintiff liable for damages for frivolous legal actions.

Sections §3-2302 (A) and §3-2303 (C) contain conflicting language. While §3-2302 (A) reflects existing statutes, §3-2302 (A) negates the "mens rea" provisions.

§3-2302 (A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY (emphasis added) OR RECKLESSLY CREATE, MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:

§3-2303 (C) A PARTY SEEKING RELIEF UNDER THIS SECTION IS NOT REQUIRED TO PROVE THAT A FIREARM INDUSTRY MEMBER ACTED WITH THE INTENT TO VIOLATE THIS SUBTITLE (emphasis added).

Attached to this testimony is a page from the Maryland State Police Firearms Training Course Instructional Material which depicts one of the devices instructors must include but which are deemed a threat to public safety under SB 488.

SB 488 is a vindictive Bill directed at everything and everyone except the criminals.

We strongly urge an unfavorable report.

John H. Josselyn, Director
2A Maryland
02/16/2024

II. HOME FIREARM SAFETY

A. Storing firearms in the home

1. Treat ALL guns as if they are loaded.
2. Always store your firearm unloaded and in a secure location. Consider a locked closet, drawer, or similar storage facility. A small and relatively inexpensive combination lock or key lock safe is ideal for storing firearms and ammunition.
3. Store firearms and ammunition separately.
4. Do not store firearms along with other valuable items such as jewelry. These are prime targets for theft.
5. Never store firearms in the glove compartment or trunk of your automobile.
6. Regardless of the storage method selected, always store firearms and ammunition in a location that is not subject to moisture or temperature extremes.
7. Never store firearms under the pillow or near the bed.
8. Always store firearms in the same safe location.
9. Have a routine when entering your home of securing the firearm and ammunition immediately upon arrival.

B. Making a gun "safe" for storage

1. Commercially manufactured "trigger locks" may be used to prevent the trigger from functioning. Remember that you should always keep the key in your possession.
2. A revolver may be effectively rendered safe by placing a padlock through the top strap so that the cylinder cannot be closed.
3. We must be willing to accept the obligation of firearms safety at all times – at the range, on the street, and at home. It is essential that each and every one of us exercise skill and good judgment when it comes to firearms.
4. The mere existence of laws, rules, and regulations will not prevent accidents. It is only the diligent application of those rules, coupled with an ample measure of common sense that will enhance our ability to handle firearms safely.
5. Be aware that children may think the firearm is a toy gun due to the fact that many modern semi-automatic pistols are made with polymer components.

Types of Storage Devices

Gun Cases: commonly used for transportation and storage

Gun Lockbox: allows for storage of a gun and protection from unauthorized access

Gun Safe: greatest level of security

Lockable Drawer: must not forget to lock, can be forced open

Lockable Gun Rack: allows firearms, especially long guns, to be stored securely and displayed

Cable Locks



Judge: Casinos have no duty to stop compulsive gamblers



The Borgata casino in Atlantic City, New Jersey, and its parent company, MGM Resorts International, were sued by a self-professed compulsive gambler. Wayne Parry/AP 2023

BY WAYNE PARRY ASSOCIATED PRESS

ATLANTIC CITY, N.J. — Atlantic City's casinos have no legal obligation to stop compulsive gamblers from betting, a judge ruled, dismissing a lawsuit from a self-described problem gambler who accused the Borgata and its parent

company, MGM Resorts International, of plying him with offers to gamble despite knowing about his addiction.

U.S. District Court Judge Madeline Cox Arleo dismissed a lawsuit Jan. 31 by Sam Antar against the gambling companies, saying the voluminous rules and regulations governing gambling in New Jersey do not impose a legal duty upon casinos to cut off compulsive gamblers.

New Jersey casino law “pervasively regulates the responsibilities of casinos as they relate to compulsive gamblers, but is notably silent on whether casinos or online gambling platforms may induce people who present with compulsive gambling behavior to patronize their businesses,” the judge wrote in her decision.

She also cited two previous New Jersey cases in which a compulsive gambler and a patron who claimed to have lost money gambling while drunk sued unsuccessfully.

Similar lawsuits have been dismissed in other states.

“The New Jersey Legislature ... has not yet seen fit to require casinos to prevent or stop inducing gambling from those that exhibit problem gambling behavior,” Arleo wrote. “As a matter of law, (the) defendants do not owe a negligence common law duty of care to plaintiffs.”

Antar said the law needs to be changed, adding that he plans to appeal the dismissal of the case.

“This is not just about me; this is about all the people across this country who have this addiction,” he said. “When are we as a country going to address this?”

New Jersey, like other states, has a program in which gamblers can voluntarily exclude themselves from in-person or online betting. The casinos must honor that list and have been fined by regulators for allowing self-excluded gamblers to place bets.

Antar, who has homes in New York and in Long Branch, New Jersey, gambled \$30 million over 100,000 bets during nine months in 2019, according to his lawsuit, which does not specify how much he lost. Antar said he is not certain of the amount, and his lawyer, Matthew Litt, said it was “at least in the six figures.”

His lawsuit made some of the same claims that were raised — and rejected by a judge — in another person’s lawsuit targeting Atlantic City casinos.

In 2008, a federal judge ruled against New York gambler Arelia Taveras, who sued seven Atlantic City casinos that she said had a duty to stop her from gambling. She lost nearly \$1 million over two years, including dayslong gambling binges.

“She spent money on the bona fide chance that she might win more money,” U.S. District Court Judge Renée Bumb wrote in a 2008 ruling. “In short, she gambled. The mere fact that defendants profited from her misfortune, while lamentable, does not establish a cognizable claim in the law.”

Litt, Antar’s lawyer, said his appeal will center on his contention that New Jersey’s Consumer Fraud Act, designed to protect customers from “unconscionable” acts by companies, should apply in this case.

In 2013, Antar was sentenced to 21 months in federal prison for taking \$225,000 in a fraudulent investment scheme. He was convicted and jailed in 2022 on theft-by-deception charges involving nearly \$350,000.

In 2023, he admitted committing federal securities fraud for bilking investors, including friends, stemming from that same case, served four months in jail and was ordered to pay restitution.

Antar is currently free under an intensive supervision program, and says he has been informally counseling young people with gambling problems.

“Who better than me to show them what this can become?” he said.