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Testimony of Ramya Swami, Manager, State Policy, Brady
Support for SB 488 [FAV w/ Amendments]
Before the Maryland House Judiciary Committee
March 27, 2024

Chair Clippinger, Vice Chair Bartlett, and distinguished members of the Maryland House Judiciary Committee,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Brady today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence. **In furtherance of our goal to reduce firearm violence across Maryland, the Brady Campaign to Prevent Gun Violence is proud to support the passage of Senate Bill 488 as originally introduced in the Senate by the bill sponsor.** SB 488 creates a path for gun industry members to be held accountable for dangerous, unlawful, negligent and unsafe business practices that impact Marylanders and removes barriers that currently prevent victims and survivors from obtaining justice in the courtroom.

PLCAA Denies Justice to Victims and Survivors

Victims should have recourse for the gun industry's negligence and dangerous practices, but the Protection of Lawful Commerce In Arms Act "PLCAA" currently protects many irresponsible gun dealers and manufacturers from being held responsible. Consistent with every other industry, gun dealers and manufacturers should be held responsible for negligent and irresponsible sales practices that are the proximate cause of an individual's injuries or death, and for selling to someone who is likely to harm themselves or others. Manufacturers who design firearms without life-saving safety features, such as chamber-loaded indicators and magazine disconnect safeties, or sell to someone who is clearly likely to harm themselves should be held liable for their design failures and malpractice.¹

Preserving the Private Right of Action

The version of SB 488 before you today was amended in the Senate to exclude language that allows for a private right of action, thereby allowing only the Attorney General to bring claims of this nature to court.

¹ Vernick, J., Meisel, Z., Teret, S., Milne, J. and Hargarten, S., 1999. "I Didn't Know the Gun Was Loaded": An Examination of Two Safety Devices That Can Reduce the Risk of Unintentional Firearm Injuries," *Journal of Public Health Policy*, 20(4), pp.427-440, available at <https://www.jstor.org/stable/3343129?seq=1>.

While Brady supports SB 488, we are strongly opposed to this amendment, as it would prevent impacted survivors and communities from seeking justice against gun industry actors' whose irresponsible conduct caused harm. This bill is rooted in shifting the burden from the end users and communities impacted, to the industry making billions of dollars from the products causing destruction, and this amendment would negatively impact that shift. Without language allowing individuals to bring claims against members of the gun industry for their harmful conduct, it is likely that those most impacted by the ensuing gun violence will never see a penny for their suffering.

Brady is therefore proud to support SB 488 as originally introduced by the bill sponsor, which has the same language as HB 947, which was thoughtfully evaluated by this committee on February 28th.

PLCAA Perpetuates the Flow of Crime Guns into Communities of Color and Disincentivizes Safe Business Practices

The latest available data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reveals that just 2.7 percent of dealers accounted for over 71 percent of crime gun traces.² While this small minority of gun dealers are the sources of crime guns recovered in communities of color, these gun dealers typically sit outside those communities in less diverse and more affluent suburbs.³ Residents of these communities suffer from the chronic stress of daily interpersonal gun violence and the negative impacts on their community's economic prosperity, without recourse or compensation, while irresponsible gun dealers face no consequences.

In addition to exacerbating racial disparities in gun violence, PLCAA stymies life-saving innovation. The mere threat of civil liability motivates companies to adopt safe business practices that prevent future injuries and death.⁴ For example, car manufacturers made numerous safety improvements that have cut automobile-related deaths by 50 percent since the 1960s, primarily because of technological advancements spurred by fear of liability.⁵ PLCAA effectively removed this motivation for the gun industry, disincentivizing gun dealers from adopting safe sales practices and gun manufacturers from incorporating affordable life-saving safety devices into their products and monitoring their distribution practices.⁶ The limitations on the ability to hold the industry accountable prevent public awareness and deter regulatory changes, as well as disincentivize independent action by the industry to avoid liability, all of which would reduce gun violence and save lives.

Conclusion

As originally introduced, SB 488 will function as an exception to PLCAA, ensuring that valid civil claims can be brought against the gun industry for their dangerous, negligent, and even unlawful actions. The possibility of civil liability will not only provide civil justice to victims and survivors but also encourage the gun industry to act responsibly to help stem the tide of crime guns that harm Marylanders, particularly in urban areas where communities of color are disproportionately harmed. Having operated with special protections for years, the industry has had no financial incentive to curb irresponsible

² Department of the Treasury, "Commerce in Firearms in the United States," Bureau of ATF (Feb. 2000), available at http://www.joebrower.com/RKBA/RKBA_FILES/GOV_DOCS/BATF_report_020400.pdf.

³ Brady Campaign and Brady Center, "*Crime Guns in Impacted Communities*," Brady, available at <https://www.bradyunited.org/reports/crime-guns-in-impacted-communities>.

⁴ Vernick, J. et al., 2003. "Role of Litigation in Preventing Product-related Injuries," *Epidemiologic Reviews*, 25(1), pp.90-98, available at <https://academic.oup.com/epirev/article/25/1/90/718671>.

⁵ LaFrance, Adrienne, "Why Haven't Gunmakers Improved Safety Technology the Way Automakers Did?," *The Atlantic* (Jan. 21, 2016), available at <https://www.theatlantic.com/technology/archive/2016/01/guns-cars/424878/>.

⁶ Sampson, Kelly, "Tobacco Kills People. Opioids Kill People. But Guns Don't?," Brady (Sept. 4, 2019), available at <https://bradyunited.medium.com/tobacco-kills-people-opioids-kill-people-but-guns-dont-7852c288d496>.

conduct and instead puts profits over people. The prospect of civil liability can lead to safer products and better conduct that the industry has resisted for years.

No industry should be above the law, especially not one that makes and sells lethal weapons. SB 488 will make sure that bad actors in the gun industry are held accountable and victims of gun violence are able to get justice through the law. *For the reasons described above, Brady requests a favorable report for Senate Bill 488 as originally introduced in the Senate.*

Sincerely,
Ramya Swami