

Regulation of Firearms as Consumer Products

Background

The rate of firearm homicide, accidental death, and suicide in the United States far exceeds that of the rest of the world's industrialized societies. Yet, unlike other consumer products, there is no federal law or regulatory authority to set minimum safety standards for domestically manufactured firearms. Why? Because the gun lobby was able to gain an exemption for firearms from the 1972-enacted federal Consumer Product Safety Act, the primary federal law that protects consumers from products which present unreasonable risk of injury. For almost 30 years, an average of 200 children under the age of 14 and over a thousand adults each year have died in accidents with guns which might have been prevented by existing but unused safety technologies. The American Bar Association supports enactment of legislation to provide authority to the Treasury Department to regulate firearms as consumer products, to set minimum mandatory safety standards (such as requiring child-safe locking devices), to issue recalls of defective products and prohibit sales of firearms failing to meet minimum safety standards, and to disseminate safety information to the public.

ABA Concerns

The ABA since 1975 has supported enactment of a federal regulatory agency authority over the firearms industry, based on then-apparent inadequacies of the 1968 Gun Control Act in permitting commerce in cheap, unsafe handguns disproportionately used in crime. We supported an amendment to the Act to give authority to the Treasury Department to apply the "sporting purpose" test (already used to regulate the safety of imported guns) to domestic-made handguns. In 1994, recognizing the growing consensus within the public health community that many, if not most, accidental shootings could be prevented by requiring guns to incorporate existing technologies, including safety devices, the ABA reaffirmed its support for this federal regulatory authority based on consumer safety.

The ABA has supported legislation introduced in the past several Congresses to empower the Secretary of the Treasury to regulate the manufacture, distribution and sale of firearms and ammunition. However, this legislation has never moved past its introduction in "ideal" form. It has proposed delegation by Congress of broad powers to regulate guns, whereas the political reality for decades remains that Congress is reluctant to legislate in this area. Until sponsors are ready to focus on more limited, realistic legislative goals, the perfect bill may prevent action on the merely good in this area.

We continue to believe that all products should be manufactured according to regulations and standards that protect the consumer. The government requires toys, pharmaceuticals, appliances, and other household goods to be manufactured safely. Firearms should also meet minimum safety standards in order to protect the public from unreasonable risks of injury. Proven safety features should be required to be incorporated in the manufacture and sale of all firearms, such as gunlocks, load indicators and magazine-disconnect safeties, to prevent accidents and unauthorized access to guns in the home by teenagers

and children. Firearms should also be the subject of product recall authority, injury surveillance data collection and public safety information dissemination in order to better protect the public.

- A 1991 Government Accounting Office report estimated that 31 percent of U.S. children's accidental firearm deaths could be prevented by the addition of two simple existing devices to firearms: trigger-locks and load-indicator devices.

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