



AN ACT REVISING LAWS RELATING TO FIREARMS; PROVIDING FOR THE MONTANA FIREARMS LIABILITY CLARIFICATION ACT; PROVIDING LEGISLATIVE INTENT; PROVIDING DEFINITIONS; PROVIDING LIMITATIONS ON NEGLIGENT MARKETING CLAIMS; CREATING A PREDICATE EXCEPTION LIMITATION; PROVIDING PENALTIES; AND CREATING A PRIVATE RIGHT OF ACTION.

WHEREAS, the Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. 7901, et seq., provides essential protections to firearms manufacturers and sellers against certain lawsuits arising from the criminal or unlawful misuse of their products; and

WHEREAS, the predicate exception within the PLCAA allows for certain lawsuits to proceed if the defendant knowingly violated a state or federal statute applicable to the sale or marketing of firearms and the violation was a proximate cause of the harm; and

WHEREAS, recent litigation in the United States has demonstrated attempts to circumvent the protections of the PLCAA through broad interpretations of the predicate exception; and

WHEREAS, a broad interpretation of the predicate exception could undermine the purpose of the PLCAA, effectively swallowing the rule by allowing general statutes to circumvent the PLCAA's protections; and

WHEREAS, this legislation aims to prevent judicial activism or jury verdicts based on emotion or political leanings, ensuring that manufacturers are not unfairly punished because their products were illegally used by criminals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 7] may be cited as the "Montana Firearms Liability Clarification Act".

Section 2. Legislative intent. It is the intent of the legislature to:

- (1) ensure that firearms manufacturers and sellers are not unfairly held liable for the criminal misuse of their products;
- (2) clarify and tighten the scope of the predicate exception to prevent its misuse and maintain the intended protections in the Protection of Lawful Commerce in Arms Act, 15 U.S.C. 7901, et seq.; and
- (3) define the circumstances under which negligent marketing claims can be pursued in this state, ensuring the claims are based on clear and concrete statutory violations specific to firearm sales and marketing.

Section 3. Definitions. As used in [sections 1 through 7], unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Firearm" means a weapon that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, as defined in 18 U.S.C. 921(a)(3).
- (2) "Manufacturer" means a person engaged in the business of manufacturing firearms or ammunition for sale or distribution.
- (3) "Negligent marketing" means any advertising, promotion, or marketing practice by a manufacturer or seller that directly poses a foreseeable and substantial risk of harm to the purchaser or specific identifiable individuals.
- (4) "Seller" means a person engaged in the business of selling firearms or ammunition at wholesale or retail.

Section 4. Limitations on negligent marketing claims. It is unlawful for a person to bring a negligent marketing claim against a manufacturer or seller of firearms or ammunition unless all of the following conditions are met:

- (1) the marketing practice directly targeted individuals who are legally prohibited from owning firearms;
- (2) the marketing practice encouraged or facilitated the unlawful use of firearms;
- (3) there is a direct and substantial causal link between the marketing practice and the harm

suffered by the plaintiff; and

(4) the marketing practice violated a state or federal statute explicitly regulating the sale or marketing of firearms or ammunition in a manner that constitutes a willful and knowing violation of the law.

Section 5. Predicate exception limitation. (1) The predicate exception under the Protection of Lawful Commerce in Arms Act, 15 U.S.C. 7901, et seq., may not be interpreted broadly. A claim may only proceed if the specific statute cited as being violated:

(a) explicitly regulates firearms or ammunition; and
(b) provides clear, concrete requirements that the manufacturer or seller failed to meet, which directly caused the harm in question.

(2) General state consumer protection laws or public nuisance laws may not be considered as statutes applicable to the sale or marketing of firearms or ammunition for the purposes of the predicate exception.

(3) A broad interpretation of the predicate exception, which could effectively replace the law by allowing general statutes to circumvent the Protection of Lawful Commerce in Arms Act, 15 U.S.C. 7901, et seq., must be explicitly rejected.

Section 6. Enforcement and penalties. (1) The attorney general is authorized to enforce the provisions of [sections 1 through 7].

(2) A person who brings a negligent marketing claim in violation of [section 4] is subject to:
(a) dismissal of the claim; and
(b) payment of reasonable attorney fees and costs incurred by a party defending the claim.

Section 7. Private right of action. (1) A manufacturer or seller harmed by a negligent marketing claim brought in violation of [section 4] may bring a civil action for damages and injunctive relief.

(2) A plaintiff who prevails in an action brought pursuant to this section is entitled to recover reasonable attorney fees and costs.

Section 8. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [sections 1 through 7].

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -

I hereby certify that the within bill,
HB 801, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 801

INTRODUCED BY S. MANESS, K. LOVE, E. BYRNE, E. TILLEMAN, S. GIST, C. HINKLE, C. SPRUNGER, B. LER, P. FIELDER, B. MITCHELL, G. NIKOLAKAKOS

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