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## **Brief: Federal Gun Law Does Not Shield Gun Manufacturers and Dealers from Liability Under State Laws**

### ***Multistate Brief Filed in Support of Lawsuit Against Seven U.S. Manufacturers and a Distributor***

**BALTIMORE, MD (March 22, 2023)** – To protect public safety and hold gun manufacturers and dealers liable when they violate the law, Maryland Attorney General Anthony G. Brown has joined a coalition of 17 Attorneys General in filing an [amicus brief](#) with the U.S. Court of Appeals for the First Circuit in the case *Estados Unidos Mexicanos v. Smith & Wesson Brands et al.*

In the brief, the coalition describes the amici states’ interests in upholding public safety and preserving state-law remedies for misconduct by gun manufacturers and sellers. To further these interests, the coalition urges the court to recognize that the Protection of Lawful Commerce in Arms Act (PLCAA) creates only a narrow restriction on state-law remedies against the firearms industry. Under PLCAA’s plain terms, the coalition argues, gun manufacturers and dealers are not exempt from liability when they violate state or federal laws governing the sale and marketing of firearms.

“We have a responsibility to protect the safety and well-being of Maryland residents from the risks associated with gun violence, including encouraging responsible gun manufacturing and sales by enacting and enforcing State and federal laws,” said Attorney General Brown. “The gun industry cannot be allowed to shield itself from liability using overly broad interpretations of the law.”

The brief was filed in support of a lawsuit against seven U.S.-based gun manufacturers and a gun distributor. The lawsuit alleges that the defendants designed, marketed, distributed, and sold guns in a way they knew appealed to drug cartels and violent gangs in Mexico. The defendants successfully moved to dismiss the case on the theory that the claims were barred under PLCAA.

The coalition argues that when Congress enacted PLCAA, it did so with the intention of striking a balance: exempting gun manufacturers and sellers from liability for harms inflicted solely because of third parties’ unlawful conduct, while also expressly preserving liability where gun industry members themselves violate state or federal laws applicable to the sale or marketing of

firearms. PLCAA thus does not grant broad immunity for gun manufacturers and sellers and does not stand in the way of actions, like this lawsuit, alleging that the defendants knowingly violated state or federal statutes applicable to the sale or marketing of firearms.

The coalition argues that the state and federal statutes identified in the complaint filed in this case, such as the federal Gun Control Act of 1968, the National Firearms Act of 1934, and state consumer protection laws, are precisely the sort of statutes that the PLCAA says can be enforced. Since this lawsuit alleges violations of each of these laws, the coalition argues, the district court erred in analyzing only the alleged state-law violations, but not the alleged federal violations, before dismissing the complaint as barred by PLCAA. The coalition also argues that principles of federalism and respect for state sovereignty require reading PLCAA narrowly.

Joining Attorney General Brown in the brief are the Attorneys General of California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, and Vermont.

<https://www.marylandattorneygeneral.gov/press/2023/032223.pdf>