

An Open Letter from the Violence Policy Center to Gun Owners About Your Legal Rights

You May Not Like the Messenger, But You Need to Hear the Message

The National Rifle Association is Putting the Interests of the Gun Industry Ahead of the Safety and Economic Interests of Gun Owners

Dear Gun Owners:

The National Rifle Association is vigorously promoting legislation on Capitol Hill that will limit your rights in class action lawsuits. Under the guise of promoting gun rights, the NRA is pushing federal legislation to severely limit class action lawsuits. The U.S. House of Representatives is preparing to consider the legislation (H.R. 516, the so-called "Class Action Fairness Act").

For those of you who have received the February issue of *America's 1st Freedom*, you can read the NRA's arguments in favor of the legislation starting on page 28. The NRA claims that "class action lawsuits could become the weapon of choice for the triumvirate of predatory trial lawyers, leftist gun-ban groups and anti-gun municipalities....The ultimate goal of such groups is to make firearms inaccessible to ordinary Americans." The NRA article urges readers to focus on "lawsuits against a class of defendants" as opposed to "the more common class action brought by a class of plaintiffs"—even though plaintiffs are free to sue multiple defendants outside of a class action context. The NRA's response to this supposed looming threat is legislation that will make it virtually impossible for consumers—including gun owners—to win in class actions.

So who are the plaintiffs bringing class action suits against the gun industry? The answer is gun owners seeking fair compensation for defective guns.

Gun owners, for example, sued Remington in a Texas state court because their shotgun barrels were prone to explode. The defendant, Remington, removed the case to federal court where it is more difficult for plaintiffs to have their case certified as a class action.

The plaintiffs' evidence in the suit revealed 2,000 to 3,000 Remington shotgun barrel explosions over a 30-year period. In the face of such evidence, the defendants agreed to class certification for the purposes of a settlement. Not only did the plaintiffs in that case receive compensation for the diminished value of their guns, but Remington agreed to upgrade the steel it used and provide a safety bulletin warning of the explosion hazard (see *Garza v. Remington Arms Company, Inc.*, 1996 U.S. Dist. LEXIS 2009).

But under H.R. 516, virtually all cases where consumers are injured by defective guns would be forced into federal court where, as demonstrated in the case involving Glock pistols described below, class certification is rarely granted (for more details please see VPC fact sheets at www.vpc.org).

A nationwide class of Glock owners—estimated to number at least 50,000—brought a class action suit in an attempt to receive compensation for pistols that allegedly were prone to jam and fire unintentionally. A federal district court ruled that Georgia law should be used to decide the claims. The federal appeals court disagreed, however, and refused to certify the class, sounding the death knell for the suit (see *Spence v. Glock, Inc*, 227 F. 3d 308 (5th Cir. 2000)). The legal limbo illustrated by the *Glock* case—where gun owners are denied a remedy—will become the norm under H.R. 516. Whereas today aggrieved gun owners can seek redress in state courts to avoid complicated ‘choice of law’ issues, H.R. 516 will force virtually all consumer class actions into federal court where plaintiffs will likely suffer the same fate as the Glock owners.

In effect, this NRA-backed bill will deny classes of gun owners the right to sue gun manufacturers in their own state courts—courts where they are more likely to win. The result: gun consumers who buy defective firearms will be out of luck.

Don't let the NRA sell out your rights. Preserve your legal rights by urging your Representatives to OPPOSE H.R. 516.

Sincerely,

Violence Policy Center