

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2067

By Delegates Coop-Gonzalez, Horst, Hillenbrand,
Linville, Phillips, Foggin, T. Clark, Anders, McGeehan,
Kimble, and Steele

[Originating in the Committee on the Judiciary;

Reported on March 12, 2025]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §61-7C-1, §61-7C-2, §61-7C-3, §61-7C-4, and §61-7C-5; all relating to the
3 creation of the West Virginia Firearms Marketing Clarification Act; providing for a short title;
4 providing for definitions; providing limitations on negligent marketing claims; creating a
5 predicate exception limitation; and providing for severability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7C. WEST VIRGINIA FIREARMS MARKETING CLARIFICATION ACT.

§61-7C-1. Short title.

1 This article shall be known and may be cited as the "West Virginia Firearms Marketing
2 Clarification Act."

§61-7C-2. Definitions.

1 For the purposes of this article:

2 (a) "Firearm" means any weapon which will or is designed to or may readily be converted
3 to expel a projectile by the action of an explosive, as defined in 18 U.S.C. § 921(a)(3).

4 (b) "Manufacturer" means any person engaged in the business of manufacturing firearms
5 or ammunition for sale or distribution.

6 (c) "Seller" means any person engaged in the business of selling firearms or ammunition at
7 wholesale or retail.

8 (d) "Negligent marketing" means any advertising, promotion, or marketing practice by a
9 manufacturer or seller that directly poses a foreseeable and substantial risk of harm to the
10 purchaser or specific identifiable individuals.

11 (e) "PLCAA" means the Protection of Lawful Commerce in Arms Act of 2005, 15 U.S.C.
12 105, et seq.

§61-7C-3. Limitations on Negligent Marketing Claims.

1 (a) No person may bring a negligent marketing claim against a manufacturer or seller of
2 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 direct and substantial proximate cause between the marketing practice and the harm suffered by the plaintiff.

(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.

(b) If these conditions are not met, the court must, upon motion, summarily dismiss the action, or dismiss any parties who are improperly joined.

§61-7C-4. Predicate Exception Limitation; Construction.

(a) The predicate exception under the PLCAA shall not be interpreted broadly. A claim may only proceed if the specifically cited statute was violated in the following manner:

(1) The statute explicitly regulates firearms or ammunition.

(2) The statute provides clear, concrete requirements that the manufacturer or seller failed to meet.

(3) The violation of the statute directly and proximately caused the harm in question.

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

(c) Broad interpretation of the predicate exception that may result in general consumer marketing statutes circumventing the PLCAA is disallowed by this Act.

§61-7C-5. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article which can

- 2 be given effect without the invalid provision or application, and to this end, the provisions of this
- 3 article are declared to be severable.