

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2067

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

[Introduced February 12, 2025; referred
to the Committee on the Judiciary]

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, §61-7C-5, §61-7C-6, §61-7C-7,
 3 §61-7C-8, and §61-7C-9, all relating to the creation of the West Virginia Firearms Liability
 4 Clarification Act; providing for a short title; setting forth legislative findings and the intent of
 5 the article; providing for definitions; providing limitations on negligent marketing claims;
 6 creating a predicate exception limitation; setting forth enforcement and penalties; creating
 7 a private right of action; providing for severability; and establishing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7C. WEST VIRGINIA FIREARMS LIABILITY CLARIFICATION ACT.

§61-7C-1. Short title.

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

§61-7C-2. Legislative findings and intent.

1 (a) The Legislature finds that:

2 (1) The PLCAA provides essential protections to firearms manufacturers and sellers
 3 against certain lawsuits arising from the criminal or unlawful misuse of their products.

4 (2) The predicate exception within the PLCAA allows for certain lawsuits to proceed if the
 5 defendant knowingly violated a state or federal statute applicable to the sale or marketing of
 6 firearms, and such violation was a proximate cause of the harm.

7 (3) Recent litigation has demonstrated attempts to circumvent the PLCAA's protections
 8 through broad interpretations of the predicate exception.

9 (4) A broad interpretation of the predicate exception could undermine the PLCAA's
 10 purpose, effectively "swallowing the rule" by allowing general statutes to circumvent the article's
 11 protections.

12 (5) This legislation aims to prevent judicial activism or jury verdicts based upon emotion or
 13 political leanings, ensuring that manufacturers are not unfairly punished because their products

14 were illegally used by criminals.

15 (b) It is the intent of the Legislature to:

16 (1) Ensure that firearms manufacturers and sellers are not unfairly held liable for the
17 criminal misuse of their products.

18 (2) Clarify and tighten the scope of the predicate exception to prevent its misuse and
19 maintain the PLCAA's intended protections.

20 (3) Define the circumstances under which negligent marketing claims can be pursued in
21 West Virginia, ensuring they are based on clear, concrete statutory violations specific to firearm
22 sales and marketing.

§61-7C-3. 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.

§61-7C-4. Limitations on Negligent Marketing Claims.

1 (a) It shall be unlawful for any person to bring a negligent marketing claim against a
2 manufacturer or seller of firearms or ammunition unless all of the following conditions are met:

3 (1) The marketing practice directly targeted individuals who are legally prohibited from
4 owning firearms.

5 (2) The marketing practice encouraged or facilitated the unlawful use of firearms.

6 (3) There is a direct and substantial causal link between the marketing practice and the
7 harm suffered by the plaintiff.

8 (4) The marketing practice violated a State or Federal statute explicitly regulating the sale
9 or marketing of firearms or ammunition in a manner that constitutes a willful and knowing violation
10 of the law.

§61-7C-5. Predicate Exception Limitation.

1 (a) The predicate exception under the PLCAA shall not be interpreted broadly. A claim may
2 only proceed if the specific statute cited as being violated:

- 3 (1) Explicitly regulates firearms or ammunition.
- 4 (2) Provides clear, concrete requirements that the manufacturer or seller failed to meet.
- 5 (3) The violation of which directly caused the harm in question.

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

9 (c) The broad interpretation of the predicate exception, which could "swallow the rule" by
10 allowing general statutes to circumvent the PLCAA, is explicitly rejected.

§61-7C-6. Enforcement and Penalties.

1 (a) The Attorney General of West Virginia is authorized to enforce the provisions of this
2 article.

3 (b) Any person who brings a negligent marketing claim in violation of this article shall be
4 subject to:

- 5 (1) Dismissal of the claim.
- 6 (2) Payment of reasonable attorney's fees and costs incurred by the defendant.

§61-7C-7. Private Right of Action.

1 (a) Any manufacturer or seller harmed by a negligent marketing claim brought in violation
2 of this article may bring a civil action for damages and injunctive relief in a court of competent

3 jurisdiction.

4 (b) Plaintiffs who prevail in such actions shall be entitled to recover reasonable attorney's
5 fees and costs.

§61-7C-8. **Severability.**

1 If any provision of this article or the application thereof to any person or circumstance is
2 held invalid, such invalidity shall not affect other provisions or applications of this article which can
3 be given effect without the invalid provision or application, and to this end, the provisions of this
4 article are declared to be severable.

§61-7C-9. **Effective** **Date.**

1 This article shall take effect on January 1, 2026.

NOTE: The purpose of this bill is to create the West Virginia Firearms Liability Clarification Act. The bill provides for a short title. The bill sets forth legislative findings and the intent of the article. The bill provides for definitions. The bill provides limitations on negligent marketing claims. The bill creates a predicate exception limitation. The bill sets forth enforcement and penalties. The bill creates a private right of action. The bill provides for severability. Finally, the bill provides for an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.