

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 9298
OFFERED BY M . _____

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stopping Harmful and
3 Outrageous Torts Act of 2026”.

4 SEC. 2. CLARIFYING THE BROAD SCOPE OF IMMUNITY
5 AGAINST QUALIFIED CIVIL ACTIONS.

Section 3 of the Protection of Lawful Commerce in Arms Act (15 U.S.C. 7902) is amended by striking subsection (b) and inserting the following:

9 “(b) DISMISSAL OF PENDING ACTIONS.—A qualified
10 civil liability action, including any claims asserted therein,
11 that is pending on the date of enactment of the Stopping
12 Harmful and Outrageous Torts Act, shall be immediately
13 dismissed by the court in which the action was brought
14 or is currently pending.”.

15 SEC. 3. UPDATING DEFINITIONS TO HALT THE SPREAD OF
16 FRIVOLOUS LAWSUITS.

Section 4 of the Protection of Lawful Commerce in Arms Act (15 U.S.C. 7903) is amended—

1 (1) by striking paragraph (1) and inserting the
2 following:

3 “(1) ENGAGED IN THE BUSINESS.—The term
4 ‘engaged in the business’ means devoting time, at-
5 tention, and labor to the sale, manufacture, or im-
6 portation of a qualified product as a regular course
7 of trade or business.”;

8 (2) in paragraph (2), by striking “commerce”
9 and all that follows through the period at the end
10 and inserting “commerce, including any owner and
11 employee of such person”;

12 (3) by redesignating paragraphs (4) through
13 (9) as paragraphs (5) through (10), respectively;

14 (4) by inserting after paragraph (3) the fol-
15 lowing:

16 “(4) PROXIMATE CAUSE.—The term ‘proximate
17 cause’ means that the plaintiff was directly injured
18 by the allegedly unlawful conduct of the defendant.”;

19 (5) by striking paragraph (5), as so redesign-
20 nated, and inserting the following:

21 “(5) QUALIFIED PRODUCT.—The term ‘quali-
22 fied product’ means a firearm (as defined in sub-
23 paragraph (A), (B), or (C) of section 921(a)(3) of
24 title 18, United States Code), including any antique
25 firearm (as defined in section 921(a)(16) of such

1 title), ammunition (as defined in section
2 921(a)(17)(A) of such title), or a component part of,
3 or an accessory intended for use with, a firearm or
4 ammunition, including ammunition magazines or
5 clips, optical devices, or other products intended to
6 be included in, attached to, or used while attached
7 to, or in conjunction with, a firearm or ammunition,
8 that has been shipped or transported in interstate or
9 foreign commerce.”;

10 (6) by striking paragraph (6), as so redesign-
11 nated, and inserting the following:

12 “(6) QUALIFIED CIVIL LIABILITY ACTION.—

13 “(A) IN GENERAL.—The term ‘qualified
14 civil liability action’ means a civil action, pro-
15 ceeding, or administrative proceeding, or any
16 claim asserted therein, brought by any person
17 against a manufacturer or seller of a qualified
18 product, or a trade association, for damages,
19 punitive damages, injunctive or declaratory re-
20 lief, abatement, restitution, fines, or penalties,
21 or other relief, resulting from, on the basis of,
22 arising out of, or in relation to the criminal or
23 unlawful misuse, alteration, or modification of a
24 qualified product by the person or a third
25 party, under any theory of liability, including

1 statutory claims or claims arising from tort or
2 contract, but shall not include—

3 “(i) a claim brought against a trans-
4 feror convicted under section 924(h) of
5 title 18, United States Code, or a com-
6 parable or identical State felony law, by a
7 party directly harmed by the conduct of
8 which the transferee is so convicted;

9 “(ii) a claim brought against a seller
10 for negligent entrustment or negligence per
11 se;

12 “(iii) a claim—

13 “(I) in which a manufacturer or
14 seller of a qualified product knowingly
15 violated chapter 44 of title 18, United
16 States Code, chapter 53 of the Inter-
17 nal Revenue Code of 1986, the Arms
18 Export Control Act (22 U.S.C. 2751
19 et seq.), or the Export Control Re-
20 form Act of 2018 (50 U.S.C. 4801 et
21 seq.), or an equivalent State statute,
22 that is intended to and exclusively im-
23 poses specific and concrete obligations
24 on manufacturers and sellers regard-
25 ing the manner in which qualified

1 products are manufactured, distrib-
2 uted, or transferred to unlicensed per-
3 sons;

4 “(II) in which the violation was a
5 proximate cause of the harm for
6 which relief is sought; and

7 “(III) that is not premised on
8 nuisance or negligence, whether based
9 in statute or common law;

10 “(iv) a claim for breach of contract or
11 warranty in connection with the purchase
12 of the product;

13 “(v) a claim for death, physical inju-
14 ries or property damage resulting directly
15 from a defect in design or manufacture of
16 the product, when being lawfully used as
17 intended or in a reasonably foreseeable
18 manner, except that where the discharge of
19 the product was caused by a volitional act
20 which meets the elements of a criminal of-
21 fense, then such act shall be considered the
22 sole proximate cause of any resulting
23 death, personal injuries or property dam-
24 age; or

1 “(vi) a claim or proceeding com-
2 menced by the Attorney General to enforce
3 the provisions of chapter 44 of title 18,
4 United States Code, or chapter 53 of the
5 Internal Revenue Code of 1986.

6 “(B) NEGLIGENT ENTRUSTMENT.—As
7 used in subparagraph (A)(ii), the term ‘neg-
8 ligent entrustment’—

9 “(i) means the supplying of a quali-
10 fied product by a seller for use by another
11 person when the seller knows, or reason-
12 ably should know, the person to whom the
13 product is supplied is themselves likely to,
14 and does, use the product in a manner in-
15 volving unreasonable risk of physical injury
16 to the person or others; and

17 “(ii) does not include instances in
18 which the harm was caused by a person
19 who was not entrusted with the qualified
20 product directly by the seller.

21 “(C) RULE OF CONSTRUCTION.—The ex-
22 ceptions enumerated under clauses (i) through
23 (v) of subparagraph (A) shall be construed so
24 as not to be in conflict, and no provision of this

1 Act shall be construed to create a public or pri-
2 vate cause of action, claim, or remedy.

3 “(D) MINOR CHILD EXCEPTION.—Nothing
4 in this Act shall be construed to limit the right
5 of a person under 17 years of age to recover
6 damages authorized under Federal or State law
7 in a civil action that meets one of the require-
8 ments under clauses (i) through (v) of subpara-
9 graph (A).

10 “(E) FOREIGN STATE AND GOVERN-
11 MENTS.—

12 “(i) DEFINITION.—The term ‘foreign
13 state or government’ includes any entity,
14 agency, or instrumentality of a foreign
15 state or government.

16 “(ii) PROHIBITION.—No foreign state
17 or government may bring a civil action,
18 proceeding, or administrative proceeding,
19 or any claim asserted therein against a
20 manufacturer or seller of a qualified prod-
21 uct, or a trade association, for damages,
22 punitive damages, injunctive or declaratory
23 relief, abatement, restitution, fines, or pen-
24 alties, or other relief, resulting from, on
25 the basis of, arising out of, or in relation

1 to the criminal or unlawful misuse, alter-
2 ation, or modification of a qualified prod-
3 uct by the person or a third party, under
4 any theory of liability, including statutory
5 claims or claims arising from tort or con-
6 tract, in any Federal or State court. The
7 exceptions to immunity provided under
8 clauses (i) through (v) of subparagraph
9 (A) shall not apply to any claim brought
10 by a foreign state or government and may
11 not be asserted by any foreign state or
12 government in any Federal or State
13 court.”.

14 (7) by striking paragraph (7), as so redesign-
15 nated, and inserting the following:

16 “(7) SELLER.—The term ‘seller’, with respect
17 to a qualified product—

18 “(A) means—

19 “(i) an importer (as defined in section
20 921(a)(9) of title 18, United States Code)
21 who is engaged in the business as such an
22 importer in interstate or foreign commerce
23 and who is licensed to engage in business
24 as such an importer under chapter 44 of
25 that title;

1 “(ii) a dealer (as defined in section
2 921(a)(11) of title 18, United States Code)
3 who is engaged in the business as such a
4 dealer in interstate or foreign commerce
5 and who is licensed to engage in business
6 as such a dealer under chapter 44 of that
7 title;

8 “(iii) a person engaged in the business
9 of selling ammunition (as defined in sec-
10 tion 921(a)(17)(A) of title 18, United
11 States Code); or

12 “(iv) a person engaged in the business
13 of selling any other qualified product in
14 interstate or foreign commerce at the
15 wholesale or retail level, including import
16 and export;

17 “(B) includes any owner or employee of
18 the seller; and

19 “(C) does not include any manufacturer.”.

20 **SEC. 4. PROCEDURE FOR REMOVAL AND DISMISSAL.**

21 The Protection of Lawful Commerce in Arms Act (15
22 U.S.C. 7901 et seq.) is amended by inserting after section
23 3 (15 U.S.C. 7902) the following:

24 **“SEC. 3A. PROCEDURE.**

25 “(a) REMOVAL AND DISMISSAL.—

1 “(1) IN GENERAL.—In any action before a
2 State court in which a defendant that is a manufac-
3 turer, seller, or trade association asserts that the ac-
4 tion is a qualified civil liability action, the manufac-
5 turer, seller, or trade association may remove the ac-
6 tion to the district court of the United States for the
7 district and division embracing the place where such
8 action is pending.

9 “(2) JURISDICTION.—

10 “(A) IN GENERAL.—The district court
11 shall have jurisdiction over an action described
12 in paragraph (1) if the defendant seeking re-
13 moval makes a colorable assertion that at least
14 1 of the claims is a qualified civil liability ac-
15 tion.

16 “(B) SUPPLEMENTAL JURISDICTION.—The
17 district court may exercise supplemental juris-
18 diction over all other claims in the action that
19 arise out of the same common nucleus of opera-
20 tive facts.

21 “(3) MOTION TO DISMISS.—Upon determina-
22 tion by the district court that removal is proper, the
23 defendant shall have 30 days to file a motion to dis-
24 miss.

1 “(4) DISCRETION.—The district court has the
2 discretion to retain jurisdiction to resolve any re-
3 maining claims in the case even upon the dismissal
4 of claims barred by the immunity granted by this
5 Act if doing so comports with judicial economy, con-
6 venience, fairness to the parties, and comity.

7 “(5) REVIEW.—An order remanding a case to
8 the State court from which it was removed pursuant
9 to this section shall be immediately reviewable on
10 appeal.

11 “(b) PLEADING.—

12 “(1) IN GENERAL.—A claim brought against a
13 manufacturer or seller of a qualified product, or a
14 trade association, premised on any of the exceptions
15 listed in clauses (i) through (vi) of section 3(6)(A)
16 shall plead with particularity the factual allegations
17 providing the basis for the application of the excep-
18 tion, including those facts necessary to establish
19 scienter and proximate cause.

20 “(2) EXCEPTIONS.—A claim brought against a
21 manufacturer or seller of a qualified product, or a
22 trade association, premised on an exception to the
23 immunity granted in this Act shall allege particular-
24 ized facts showing that the manufacturer or seller of
25 a qualified product, or trade association, was the

1 proximate cause of the damages alleged. The court
2 shall determine whether the particularized facts al-
3 leged by the plaintiff suffice to establish proximate
4 cause as a matter of law.

5 “(c) INTERLOCUTORY APPEALS AS OF RIGHT.—A de-
6 fendant shall have the right to take an immediate inter-
7 locutory appeal of an order, denying a motion to dismiss
8 based on any provision of this Act.

9 “(d) ATTORNEY’S FEES FOR PREVAILING DEFEND-
10 ANTS.—A defendant who prevails in asserting the immu-
11 nity granted in this Act shall be entitled to reasonable at-
12 torney’s fees and court costs.”.

13 **SEC. 5. PREEMPTION.**

14 The Protection of Lawful Commerce in Arms Act (15
15 U.S.C. 7901 et seq.), as amended by section 4 of this Act,
16 is amended by adding at the end the following:

17 **“SEC. 3B. PREEMPTION.**

18 “The provisions of this Act expressly preempt any
19 State and local laws (including regulations) that specifi-
20 cally impose liability on qualified product manufacturers,
21 sellers, and trade associations, or that attempt to do so
22 in a generally applicable manner insofar as the State or
23 local law (including regulations) allows for civil actions,
24 civil proceedings, and administrative proceedings for dam-
25 ages, punitive damages, injunctive or declaratory relief,

1 abatement, restitution, fines, penalties, or other relief re-
2 sulting from the criminal misuse, alteration, or modifica-
3 tion of a qualified product under any theory of liability,
4 including any statutory claim arising from tort or con-
5 tract.”.

