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# Despite Biden's claim, gun makers can indeed be sued

By KARENA PHAN February 9, 2022

**CLAIM:** Gun manufacturers are “the only industry in America that is exempted from being sued by the public. The only one.”

**AP'S ASSESSMENT:** False. While gun manufacturers have legal protections that shield them from most lawsuits,

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vaccine  
manufacturers have

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THE FACTS: On  
Thursday, Feb. 3,  
[President Joe Biden](#)  
discussed his  
commitment to  
fighting gun  
violence during a  
Gun Violence  
Prevention Task  
Force [meeting](#) in  
New York City.

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In the following days, people on social media widely shared a tweet from Townhall.com, a conservative news website, that contained a video from Biden's comments with the caption: "BIDEN: Gun manufacturers are 'the only industry in America that is exempted from being sued, and I find it to be outrageous.'"

In the video clip, viewed more than 1 million times on

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being able to be  
sued by the public

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It is true that gun manufacturers have legal protections. But they are not exempt or immune from being sued. Experts told the AP that taking legal action against firearms makers and sellers is possible – but it’s very difficult for the cases to reach court. .

The 2005 Protection of Lawful Commerce in Arms Act, or PLCAA, gives immunity to gun makers so they can’t be held liable for injuries caused by criminal misuse of their weapons, Adam Winkler, a law professor at the University of California, Los Angeles, told the AP in an email. He said Congress feared

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access to buy and  
use of firearms for

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law expert Jacob Charles to the AP. Charles is a lecturing fellow at Duke University School of Law and executive director of the Duke Center for Firearms Law.

The law includes six exceptions where firearms manufacturers or dealers can be held liable for damages their weapons cause, Charles said, which means it does not provide “absolute immunity.”

These exceptions include defects or damages in the design of the gun, negligence, or breach of contract or warranty regarding the purchase of a gun.

Another one, the

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said. In the case of  
the [Sandy Hook](#)

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Newtown,  
Connecticut,  
families of victims  
of the shooting are  
suing the gun  
maker, Remington,  
and alleging  
“wrongful  
[marketing](#)” of  
firearms, according  
to previous AP  
reporting. This case  
is still developing.

But even with  
PLCAA’s  
exceptions, it’s still  
very difficult to sue  
gun manufacturers.  
Of the six  
exceptions, Charles  
said, at least three  
are “hardly ever  
used” while the  
others have been  
applied “fairly  
narrowly.”

Judges have  
dismissed many  
cases against gun  
makers. That’s  
because PLCAA  
provides immunity

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“The cases, like

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innovative suits that test the boundaries of the law,” said Winkler, who wrote “Gunfight: The Battle over the Right to Bear Arms in America.”

Despite Biden’s claim, the firearms industry is not the only industry that has special exemptions in the United States. As the video of Biden’s remarks spread online, many tweets suggested the COVID-19 vaccine manufacturers have legal immunity.

Vaccine manufacturers do have special immunity from liability under different programs, including the 2005 [Public Readiness and Emergency](#)

[Response Act](#)

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countermeasures  
can't be sued if a

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or is injured by a vaccine, said Brian Dean Abramson is adjunct professor of vaccine law at the Florida International University College of Law and one of the authors of "Vaccine, Vaccination, and Immunization Law."

However, he added, it is possible to sue a vaccine maker if they demonstrate willful misconduct but it's very difficult to prove.

The White House did not immediately respond to the AP's requests for comment.

—  
This is part of AP's effort to address widely shared misinformation,

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