

FACTCHECK POSTS

Biden Repeats False Claims at Gun Violence Meeting

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In remarks at a Feb. 3 gun violence prevention task force meeting, President Joe Biden repeated claims about gun rights and gun manufacturing that fact-checkers have previously found to be false.

- Biden said when the Second Amendment passed, “you couldn’t buy a cannon ... so no reason why you should be able to buy certain assault weapons” now. But no federal or state laws barred possession of cannons at the time, experts have said. Individuals actually could get special waivers to use privately owned ships carrying cannons during wartime.
- He also said of gun manufacturers, “They’re the only industry in America that is exempted from being able to be sued by the public.” Federal law shields gun makers from some civil lawsuits, but not all. Other industries have certain legal protections, too.

The president made those claims [during the meeting](#) in New York City with federal, state and local officials. He spoke about new actions the Justice Department plans to take as part of a multipart plan to combat and reduce gun crime across the country.

Claim About Cannons

To support his argument that the Second Amendment has always allowed for regulating the kinds of firearms and weapons that individuals can possess, Biden [offered](#) a historical example about cannons that is not accurate.

“When the amendment was passed, it didn’t say anybody can own a gun and any kind of gun and any kind of weapon,” the president said about the Second Amendment, which was [adopted](#) as part of the Bill of Rights in 1791. “You couldn’t buy a cannon when this amendment was passed. So no reason why you should be able to buy certain assault weapons.”

As [other fact-checkers](#) noted when Biden made versions of this claim at least twice before, nothing in the Second Amendment said that citizens could not own cannons, and there is no evidence that any federal or state laws barred possession of the weapons at the time, experts have said.

The text of the [Second Amendment](#) — which is only 27 words long — states: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

In addition, [Article 1, Section 8, Clause 11](#) of the U.S. Constitution gave Congress the power to declare war and “grant Letters of Marque and Reprisal,” as the *Washington Post* Fact Checker pointed out in its [June 2021 fact-checking article](#) on the subject. The letters are a type of license or waiver that [authorized](#) citizens to use their privately owned and operated ships, which could carry cannons, to raid and capture enemy vessels on behalf of the government at times of war.

Those ships, also known as privateers, [played a key role](#) in the War of 1812 against Great Britain.

Although he was wrong about a past ban on cannons, experts have said there is support for Biden’s broader point about the government’s ability to regulate weapons.

Last summer, when Biden claimed that the Second Amendment limited the kinds of weapons that could be owned and specifically cited cannons, [Saul Cornell](#), a professor of history at Fordham University, [wrote](#): “While Biden’s specific claim was wrong and poorly worded, he could have easily made his point by saying something like the following: At the time of the Second Amendment, there was nothing to prevent government from regulating arms, including dangerous or unusual weapons.”

Cornell added, “Sir William Blackstone, one of the most important legal commentators on English law, expressly stated this principle in his *Commentaries*, a text that Justice Antonin Scalia quoted in his opinion recognizing an individual right to own a firearm in *District of Columbia v. Heller*.”

In the [majority opinion](#) from that 2008 case, Scalia wrote: “Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”

When we asked Cornell about Biden’s Feb. 3 cannon claim, he said in an email, “Again, wrong on the specifics, but generally correct about the larger legal question.”

Claim About Gun Manufacturers

Biden also repeated another false talking point about the gun industry that [he](#) and other [politicians](#) have used before.

“I’ll keep doing everything in my power to make sure that communities are safer,” Biden said. “But Congress needs to do its part too: pass universal background checks, ban assault weapons and high-capacity magazines, close loopholes, and keep out of the hands of domestic abusers — weapons, repeal the liability shield for gun manufacturers.”

He continued: “They’re the only industry in America that is exempted from being able to be sued by the public. The only one.”

But gun manufacturers are not completely shielded from civil lawsuits, as [we have written](#) before. Also, the gun industry is not the only industry that federal law protects from at least some kinds of [tort lawsuits](#), which allow plaintiffs to try to recoup money from defendants for damages.

To Biden’s point, the [Protection of Lawful Commerce in Arms Act](#) does largely prevent licensed manufacturers, dealers, sellers of firearms or ammunition, and trade associations from being sued over the misuse of guns or ammunition.

However, the law included six exceptions where civil lawsuits could still be brought, [as the Congressional Research Service](#) has explained. The exceptions include cases in which a firearm seller acted with negligence, cases involving the transfer of a firearm with the knowledge that it would be used to commit a crime, and cases in which manufacturers and sellers marketed or sold a firearm in violation of state or federal law.

In November 2019, for instance, the Supreme Court [declined](#) to dismiss a [2014 lawsuit](#) that several families of victims of the Sandy Hook shooting filed against Remington Arms Co. for the way it marketed the assault-style rifle that was used to kill 20 children and six adults in the 2012 school shooting. A Connecticut judge [later ruled](#) that the case would proceed to trial.

In July 2021, Remington [offered](#) the families nearly \$33 million to settle — but [the case](#) is still pending.

As for other industries with certain legal protections, we have [written](#) about broad liability exemptions for vaccine manufacturers and administrators, for example.

In a [May 2020 legal brief](#), the Congressional Research Service said that the [Public Readiness and Emergency Preparedness Act](#) “shields manufacturers, distributors, healthcare providers, and other entities from liability for injuries resulting from the use or administration of certain medical products during a public health emergency,” including the COVID-19 pandemic. “The sole exception to PREP Act immunity is for death or serious physical injury caused by ‘willful misconduct,’” another [CRS report](#) says.

However, individuals who die or are seriously injured due to the administration of a covered product may be eligible to receive compensation through the federal [Countermeasures Injury Compensation Program](#).

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