

Center for American Progress



The Gun Industry in America

The Overlooked Player in a National Crisis

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Introduction and summary

The national conversation about gun violence in the United States focuses primarily on the harms caused by the misuse of firearms—the details of the incidents that take the lives of 40,000 people every year and grievously injure tens of thousands more.¹ This debate often occurs in the aftermath of specific gun-related tragedies and tends to focus on the individual who pulled the trigger and what could have been done to intervene with that person to prevent the tragedy.

But largely absent from the national conversation about gun violence is any mention of the industry responsible for putting guns into our communities in the first place.

The gun industry in the United States is effectively unregulated. The laws governing the operation of these businesses are porous and weak. The federal agency charged with oversight of the industry—the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)—has been historically underfunded and politically vulnerable, making it nearly impossible for the agency to conduct consistent, effective regulatory oversight activities. Adding insult to injury, Congress has also imposed restrictions on how ATF can perform this regulatory work through restrictive policy riders on the agency’s budget. Congress has also eliminated some of the most useful tools for ensuring that gun industry actors operate their businesses in the best interests of consumers and are held accountable for harm caused by their products.

The result of this constellation of weak laws, lack of resources, and dearth of political will to support gun industry regulation is that the industry that produces and sells deadly weapons to civilian consumers has operated for decades with minimal oversight from the federal government and almost no accountability in the U.S. legal system.

This is not an idle concern. The United States experiences rates of gun violence that no other high-income nation comes even close to matching.² This violence persists, even as the number of Americans who choose to own guns has steadily declined.³

Efforts to reduce gun violence that focus solely on the demand side of the problem ignore the role of the gun industry—manufacturers, importers, wholesalers, and retail gun dealers—in manufacturing and distributing the guns that are the instruments of this violence. These supply-side actors make decisions that directly affect the kinds of guns and ammunition that are manufactured and sold, the safety features included on those guns, the commercial channels in which they are sold, and the safeguards in place at the point of sale to prevent gun trafficking and theft.

A crucial component of a comprehensive plan for reducing gun violence in the United States is robust regulation and oversight of the gun industry. It is not enough to simply focus on the individuals who use guns to commit acts of violence—an approach that has contributed to overcriminalization and targeting of communities of color as part of a “tough on crime” approach to criminal justice.⁴ To truly address all aspects of the gun violence epidemic in this country, policymakers must focus on the role the gun industry plays in enabling and exacerbating this violence.

This report discusses the gaps in the current law regarding gun industry regulation and oversight. It then offers a series of policy solutions to address these gaps, including:

- Increasing oversight of gun manufacturers, importers, exporters, and dealers
- Requiring licensed gun dealers to implement security measures to prevent theft
- Strengthening the National Firearms Act review and determination process
- Strengthening oversight of homemade guns, ammunition, and silencers
- Giving the Consumer Product Safety Commission authority to regulate guns and ammunition for safety
- Repealing the Protection of Lawful Commerce in Arms Act

The high rates of gun death experienced in this country are not inevitable or, as some in the gun lobby claim, “the price of freedom.”⁵ There is much more that can be done to provide better oversight and regulation of the gun industry, which would have a significant impact on reducing gun violence and making all of our communities safer.

Overview of the U.S. gun industry: Manufacturing, importation, exportation, and commercial sales

Throughout the history of the United States, laws to regulate the firearm industry have lagged behind the growth and innovation of that industry. The first major federal law in the United States regulating guns was not enacted until 1934—despite the presence of a robust industry in firearms in this country for more than a century prior.⁶ This law, the National Firearms Act (NFA), was a relatively narrow measure primarily designed as a response to a dramatic increase in organized violent crime during the Prohibition era, particularly the use of machine guns.⁷ The law didn't change again until 1968, when the assassinations of Martin Luther King Jr., President John F. Kennedy Jr., and Robert Kennedy served as the catalyst for a major piece of legislation, the Gun Control Act of 1968.⁸ This new law for the first time established a framework for the lawful commerce in firearms that included a system of federal regulatory oversight of gun and ammunition manufacturers, importers, and dealers that required these businesses to become licensed by the federal government and subject themselves to oversight in the form of inspections and mandatory record keeping.⁹

The federal law governing the operation of the gun industry changed again in 1986, although this change was designed to loosen regulation of the industry. The Firearm Owners' Protection Act (FOPA) amended the Gun Control Act in a number of ways that weakened oversight of the industry, including by limiting the number of compliance inspections ATF can perform on gun dealers, raising the legal standard for penalizing dealers for violations, and creating a substantial exception to the requirement that vendors of guns obtain a license from ATF for those who conduct only “occasional” sales. FOPA also significantly reduced regulation of ammunition by eliminating the requirement that businesses seeking to sell ammunition obtain a license from ATF or retain any records related to ammunition sales.¹⁰

The most recent major federal legislation affecting the gun industry was the Brady Handgun Violence Prevention Act, which was finally enacted in 1993 despite being motivated by the attempted assassination of President Ronald Reagan in 1981 in an incident that ultimately led to the death of his press secretary, James Brady. The Brady Act created the National Instant Criminal Background Check System (NICS)

and enacted a new requirement that licensed gun dealers conduct a background check before completing a sale to ensure that any prospective buyer is not statutorily prohibited from gun possession.¹¹ In addition, the Violent Crime Control and Law Enforcement Act of 1994 included a provision banning assault weapons; however, this provision was allowed to sunset in 2004 and the industry was once again able to manufacture and sell these types of firearms.¹²

There has been no significant change to the federal law governing commerce in firearms in more than 20 years. The law has failed to keep up with changes in the industry, in terms of scope, size, and the type of products being designed and sold. The laws are woefully out of date and unprepared to address advances in technology such as internet gun sales, 3D printing, homemade and untraceable ghost guns, and a proliferation of firearm silencers and other dangerous accessories. In addition, the law continues to tie the hands of the federal agency charged with conducting regulatory oversight of the industry.

Gun manufacturing

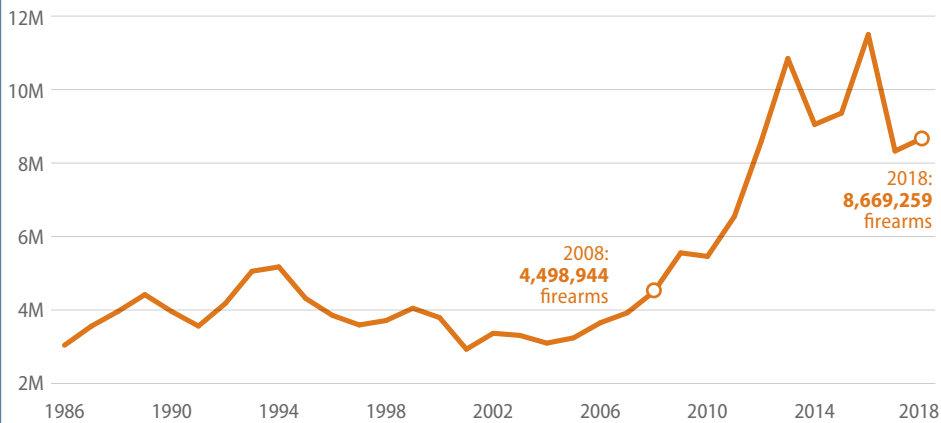
The United States has been home to a robust firearms industry for decades. The earliest available data provided by ATF on firearms manufacturing reveals that 3.04 million guns were manufactured in the United States in 1986.¹³ While this volume of gun manufacturing remained relatively stable in the 1990s and 2000s, ATF data reveal a significant increase in recent years. While an annual average of 3.8 million firearms were manufactured in the United States from 1986 to 2008, this average more than doubled to an annual average of 8.4 million firearms per year from 2009 to 2018.¹⁴ (see Figure 1)

Gun manufacturing in the United States reached a 31-year high in 2016, with 11.5 million firearms manufactured. Gun production has dropped since then, decreasing 28 percent in 2017 and 25 percent in 2018.¹⁵ Even with these drops, however, 2017 and 2018 were the seventh- and fifth-highest years for firearm manufacturing, respectively.¹⁶

The rise in gun manufacturing in recent years is driven primarily by rifle and pistol production. (see Figure 2) According to ATF data, close to 76 percent of firearms manufactured from 2009 to 2018 were either pistols or rifles.¹⁷ Within the category of pistols, the rise in production is likely attributable, at least in part, to an increase in the manufacturing of large caliber concealable pistols.¹⁸ Additionally, the category of miscellaneous firearms, which includes items such as pistol grip firearms,¹⁹ firearm frames, and receivers, has grown considerably since 2010. While close to 851,000 miscellaneous firearms were manufactured from 1986 to 2009, more than 3.4 million were produced from 2010 to 2018.²⁰

FIGURE 1
U.S. gun manufacturing has grown since 2008

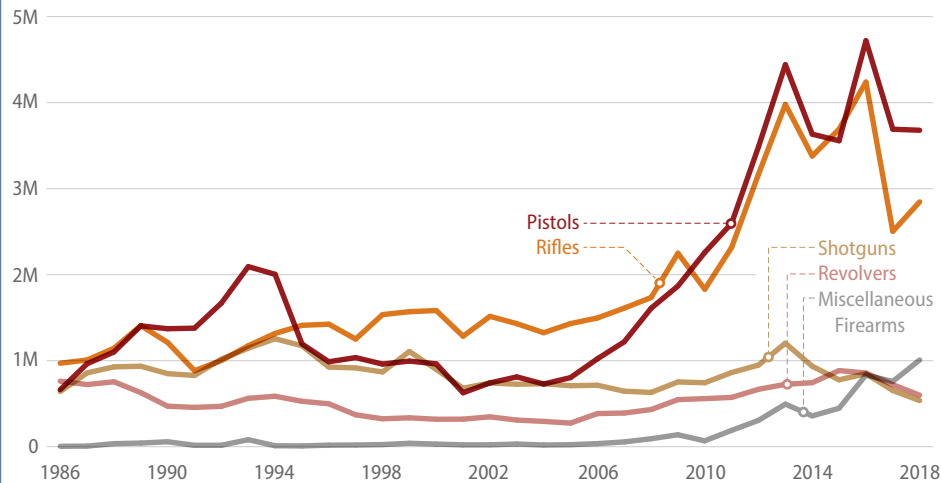
Firearms manufactured in the United States, 1986–2018



Note: The number of manufactured firearms for 2018 is based on an interim report. Official figures may slightly change.

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Commerce in the United States Annual Statistical Update, 2019" (Washington: U.S. Department of Justice, 2019), available at <https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download>; Bureau of Alcohol, Tobacco, Firearms and Explosives, "Annual Firearms Manufacturing and Export Report" (Washington: U.S. Department of Justice, 2018), available at <https://www.atf.gov/file/137681/download>.

FIGURE 2
Firearms manufactured in the United States by weapon type, 1986–2018



Note: The number of manufactured firearms for 2018 is based on an interim report. Official figures may slightly change.

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Commerce in the United States Annual Statistical Update, 2019" (Washington: U.S. Department of Justice, 2019), available at <https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download>; Bureau of Alcohol, Tobacco, Firearms and Explosives, "Annual Firearms Manufacturing and Export Report" (Washington: U.S. Department of Justice, 2018), available at <https://www.atf.gov/file/137681/download>.

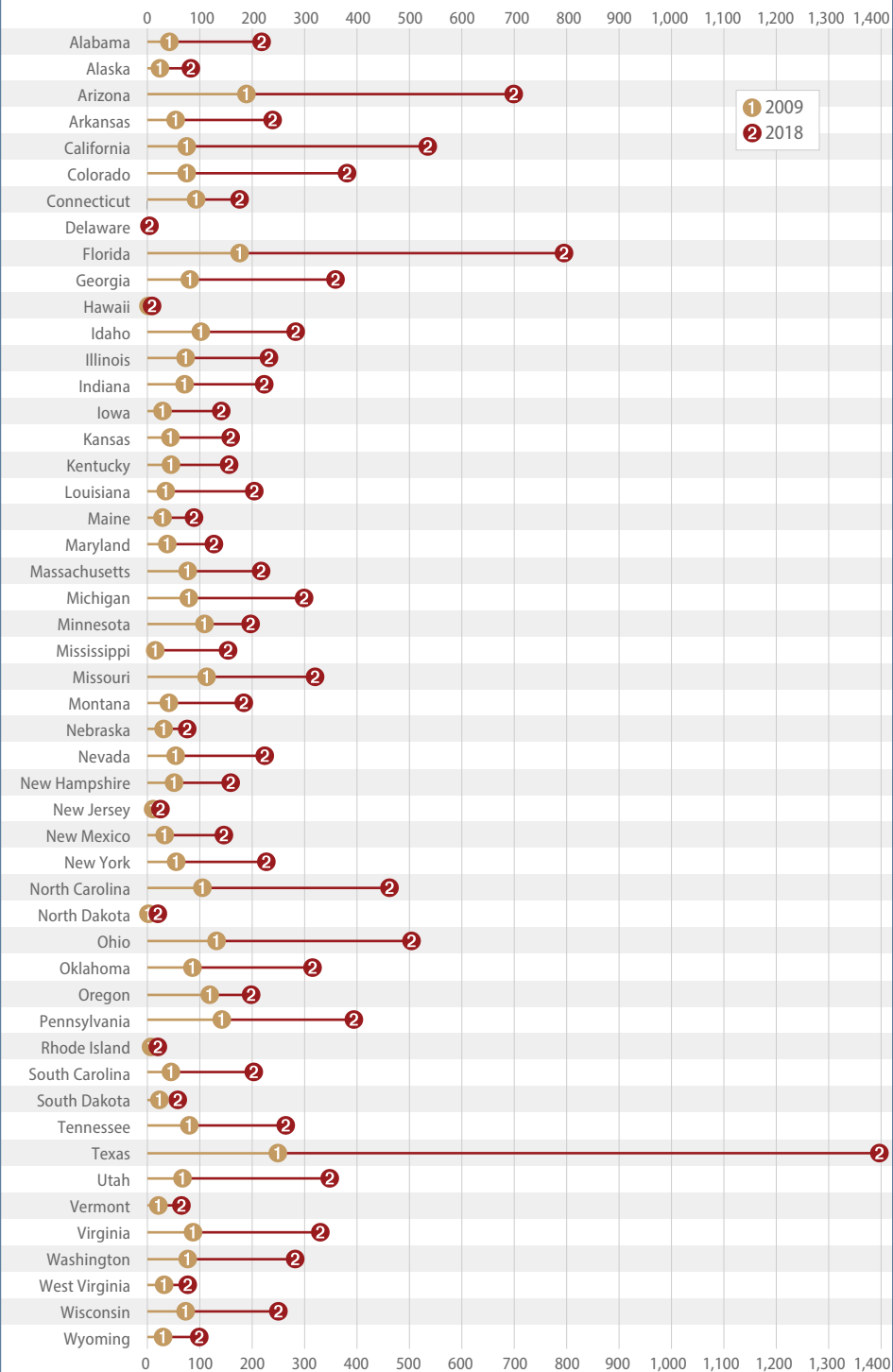
The dramatic growth in the gun manufacturing industry is also demonstrated by an increase in the number of licensed gun manufacturers in the country, which grew 255 percent from 2009 to 2018. As of 2018, there were nearly 12,600 licensed firearms manufacturers in the United States.²¹ The increase in the number of licensed gun manufacturers occurred nationwide, although there are significant differences in the size of the gun manufacturing industry from state to state. (see Figure 3)

While there are a significant number of gun manufacturers in the United States, total gun production is largely concentrated among a few large companies. Three manufacturers were responsible for producing more than 58 percent of pistols made from 2008 to 2018: Smith & Wesson Corp., Sturm, Ruger & Co. Inc., and SIG SAUER Inc.²² Similarly, three manufacturers were responsible for the production of more than 45 percent of rifles produced from 2008 to 2018: Remington Arms, Sturm, Ruger & Co. Inc., and Smith & Wesson.²³

Licenses to manufacture ammunition have also increased, from 1,511 in 2009 to 2,119 in 2018.²⁴ Currently, there is no reporting requirement for ammunition manufactured in the United States, so there is no way to have an accurate accounting of how much ammunition is manufactured in a given year.

There are relatively few barriers to entry in the gun manufacturing sector. To make firearms in the United States, an individual or business must obtain a firearms manufacturing license from ATF, known as a type 07 license. There are no substantive requirements to qualify as a gun manufacturer: Applicants must only be over age 21, be eligible to possess guns under federal law, and not have willfully violated any federal laws or regulations related to firearms.²⁵ A three-year manufacturer's license requires a \$150 fee, and ATF is statutorily required to act on the license application within 60 days, regardless of how much scrutiny an individual application may warrant.²⁶ Gun manufacturers must also register with the Directorate of Defense Trade Controls at the U.S. Department of State and pay an annual \$2,250 fee to that agency.²⁷

FIGURE 3
Number of federal firearm licenses for manufacturers of firearms other than destructive devices by state, 2009 and 2018



Source: Bureau of Alcohol, Tobacco, Firearms and Explosive, "Federal Firearms Listings," available at <https://www.atf.gov/firearms/listing-federal-firearms-licensees>; Data from the Bureau of Alcohol, Tobacco, Firearms and Explosives were obtained from the Violence Policy Center and are on file with the authors.

Gun manufacturers are currently subject to relatively little oversight by ATF upon receiving their license to operate. Manufacturers are required to maintain records of their firearm production and sales and are subject to one potential annual inspection of inventory and records to assess compliance with applicable laws and regulations.²⁸ Manufacturers are also required to report the theft or loss of any firearms to ATF with 48 hours of discovery and to respond “immediately” to crime gun trace requests.²⁹ In addition, licensed manufacturers are required to report to ATF annually on the production of firearms, even if a manufacturer did not produce any firearms during the reporting period.³⁰ However, compliance with this requirement appears to be poor. In 2017, only 3,430 of the 11,946 licensed firearm manufacturer licensees reported to ATF on their production. This suggests two possibilities: that only 29 percent of licensees completed this requirement during 2017, meaning that the reported number of firearms manufactured in the United States that year could be an undercount, or that a significant number of licensed manufacturers paid their fees but did not produce any weapons.

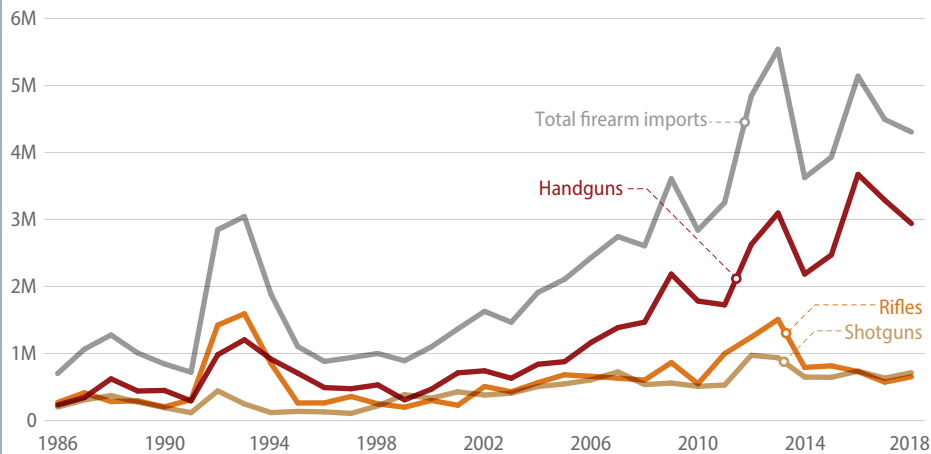
Gun imports

While the majority of new guns available for sale in the United States are manufactured domestically, a significant number of guns are imported into the country every year as well. Following similar trends as domestic manufacturing, gun imports have more than doubled in recent years: While the United States imported an annual average of 1.5 million firearms from 1986 to 2008, this annual average grew to 4.2 million firearms per year from 2008 to 2018.³¹ This increase was driven primarily by handgun and rifle imports.³² (see Figure 4)

Guns imported to the United States primarily originate from 15 countries.³³ Austria is the top supplier of foreign-made guns, providing more than 5 million firearms, primarily handguns, to the U.S. market from 2013 to 2018. Brazil, Croatia, and Germany are other top suppliers of handguns, while Canada, Italy, and Turkey export a significant number of rifles and shotguns to the United States.³⁴

Similar to firearm manufacturers, entities seeking to import guns must obtain a license from ATF, pay an annual fee of \$50, and submit to a background check to ensure the key individuals are not prohibited from gun possession under federal law.³⁵ Once granted, import licenses have a duration of three years.³⁶ The number of these licenses has also increased considerably. While there were 735 entities holding a gun import license in 2009, this figure rose to 1,127 licensees in 2018, a 53 percent increase.³⁷ Looking at data for 2018, more than 40 percent of these licenses were held by individuals or businesses in just six states: Florida, Texas, California, Virginia, Pennsylvania, and Arizona.³⁸

FIGURE 4
Number of firearms imported to the United States
by weapon type, 1986–2018



Source: Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Commerce in the United States Annual Statistical Update, 2019" (Washington: U.S. Department of Justice, 2019), available at <https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download>.

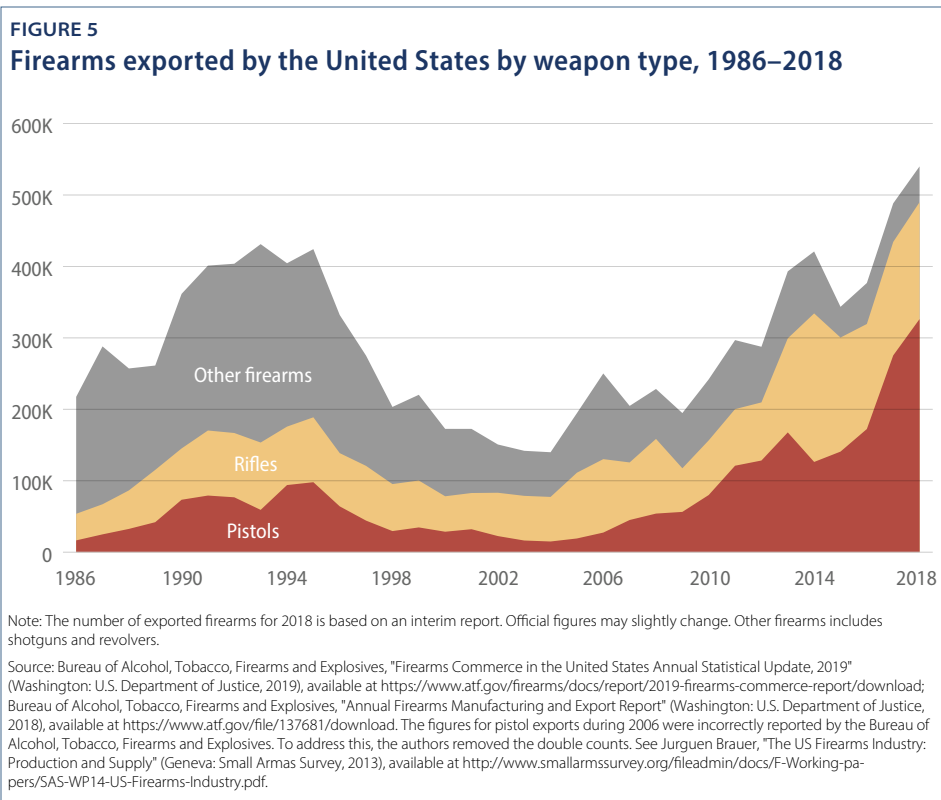
The duty to regulate firearms imports falls on both ATF and U.S. Customs and Border Protection (CBP). To import guns, individuals must fill out an ATF form that clearly identifies the type and number of firearms being imported in each individual shipment.³⁹ Once the forms are approved by ATF and those firearms enter the United States, CBP officials examine the items to ensure that they match with what was approved by ATF.⁴⁰ If everything is in order, CBP will approve those firearms to leave the port of entry and enter the United States.

In 1989, following a mass shooting at an elementary school in Stockton, California, that was perpetrated with a semiautomatic assault rifle and killed five children, President George H.W. Bush used executive authority to implement a ban on the importation of most models of foreign-made semiautomatic assault rifles.⁴¹ The ban applies to semiautomatic rifles that are determined by ATF as not "particularly suitable for or readily adaptable to sporting purposes," which the agency defined in 1989 and reinforced in 1998 as those that have certain military-style features, such as "ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights."⁴² However, in the late 2000s, members of Congress and gun violence prevention advocates began raising concerns that a combination of lax enforcement at ATF and innovation by foreign firearm manufacturers had led to an increase of foreign-made semiautomatic assault rifles being imported into the country despite the ban.⁴³

In addition, industry lobbyists have sought to narrow the definition of unlawful “non-sporting” firearms in order to increase the scope of legally importable weapons.⁴⁴ These efforts largely have failed, however, perhaps due in part to opposition by domestic gun manufacturers.⁴⁵ As a result, the definition of a nonsporting rifle for import purposes has remained largely unchanged since the 1998 study; a more recent study reassessing sporting shotguns also failed to narrow the ban.⁴⁶

Gun exports

Not all guns manufactured in the United States are destined for the U.S. market—many are exported to foreign countries to both civilian and military purchasers. Gun exports have followed trends similar to those of domestic manufacturing and imports, rising sharply during the mid-2000s and continuing through 2018, the most recent year for which data are available. As shown in Figure 5, there has been a shift in the type of guns being exported: Prior to 1995, nearly 60 percent of exported firearms were revolvers and shotguns; however, from 2005 to 2018, rifle and pistol exports grew to make up the largest share of exported guns, accounting for more than 75 percent of the total.⁴⁷



Data from the U.S. Census Bureau reveal the primary countries receiving exported firearms from the United States from 2014 through 2018, the most recent years for which data are available.⁴⁸ Handguns were primarily exported to Thailand, Canada, the Philippines, and Belgium. Canada is by far the biggest recipient of U.S. long guns, with more than \$350 million worth of imports from 2014 through 2018. In fact, Canada spends more money on the importation of U.S. long guns than the other top 30 countries combined.⁴⁹

In January 2020, the Trump administration weakened oversight of small arms exports through a regulatory change that shifted export controls of semiautomatic pistols, assault-style firearms, certain sniper rifles, and their ammunition from the jurisdiction of the U.S. Department of State to the U.S. Department of Commerce.⁵⁰ This has raised concerns in the international arms control community, as the Commerce Department uses less robust protocols for ensuring that exported goods are not sent to criminal organizations or human rights violators.⁵¹ Additionally, this rule removed congressional oversight of potential arms transfers, furthering concerns that these changes will lead to an increase in U.S. weapons being used in armed conflicts and human rights abuses around the world.⁵²

Licensed gun dealers

The exponential increase in the size of the U.S. gun industry is also evidenced by the increase in the number of individuals licensed to operate as gun dealers. While there were close to 47,500 licensed gun dealers in 2009, this figure rose to more than 55,900 by 2018, an 18 percent increase.⁵³ (see Figure 6) During the same period, the U.S. population rose by only 6.6 percent,⁵⁴ suggesting that the rise in the number of gun dealers is mainly driven by an increase in the size of the gun industry rather than population growth.

Texas, Pennsylvania, Ohio, Florida, Michigan, and California are home to the highest numbers of licensed gun dealers in terms of raw numbers, while Wyoming, Montana, Alaska, North Dakota, and South Dakota have the highest rates of gun dealers per 100,000 residents.⁵⁵ (see Figure 7)

Under current federal law, individuals who are “engaged in the business of dealing in firearms”⁵⁶ are required to obtain a license from ATF. The requirements to obtain such a license are minimal: The individual must be legally eligible to possess firearms under federal law, submit to a background check, provide fingerprints, and pay a \$200 fee in exchange for a license to operate for three years.⁵⁷ ATF investigators then conduct a qualification interview and inspection with the prospective dealer.⁵⁸ However, the current law and corresponding regulation offer only vague guidance as to what exactly it

means to be “engaged in the business.” Unscrupulous individuals can exploit this ambiguity in the current regulatory framework to sell guns at a high volume without becoming licensed—and without oversight from ATF or conducting background checks.⁵⁹ In 2016, as part of a package of executive actions to address gun violence rolled out by the Obama administration, ATF offered updated guidance for gun sellers regarding who is required to obtain a license due to the volume and character of their business: “As a general rule, you will need a license if you repetitively buy and sell firearms with the principal motive of making a profit. In contrast, if you only make occasional sales of firearms from your personal collection, you do not need to be licensed.”⁶⁰

The number of gun dealers doesn’t necessarily make clear the scope of the retail market in guns in the United States because dealers are not required to report to ATF about the volume of their sales. Indeed, ATF is prohibited under current federal law from maintaining any type of comprehensive list of gun sales that would provide insight into the true breadth and scale of this industry. One of the proxy measures available to assess the number of gun sales in the country is the number of background checks conducted using the National Instant Criminal Background Check System. Background checks have increased significantly in recent years, suggesting a rise in gun sales. While, on average, 7.7 million background checks for gun sales were conducted per year from 1999 to 2008, this number rose to 13 million from 2009 to 2018.⁶¹ Again, however, these numbers likely fail to paint the full picture, as they do not capture every gun sale through a dealer or any sales facilitated by unlicensed sellers.

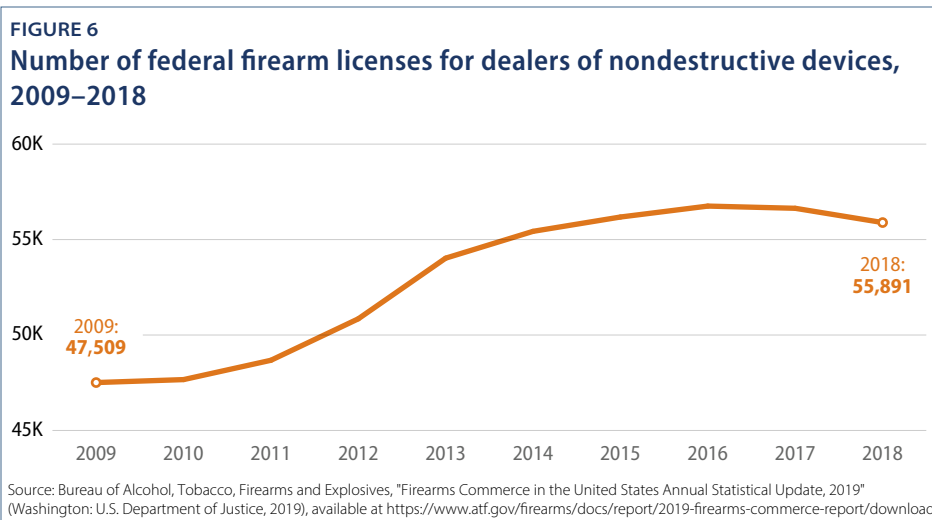
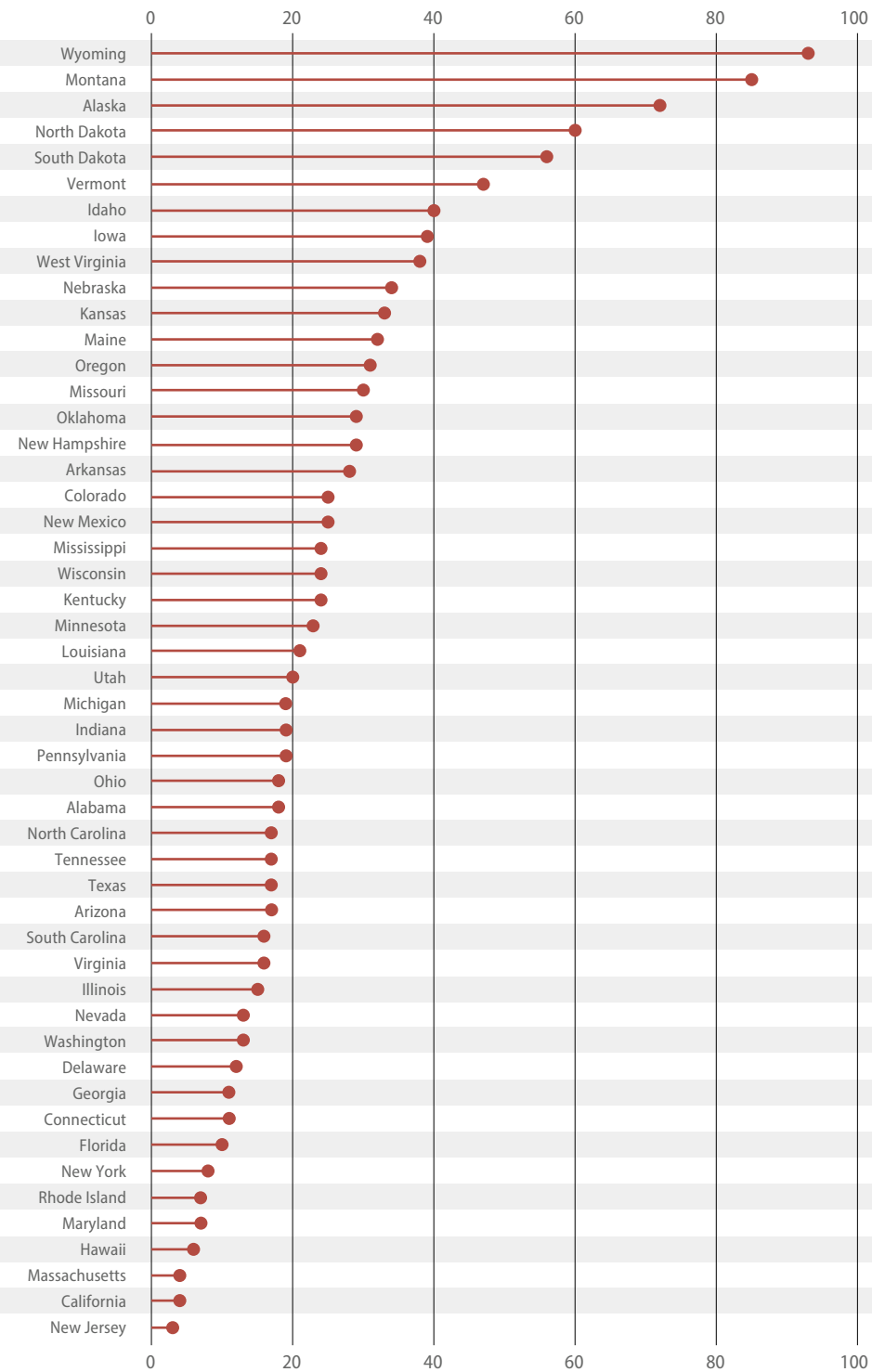


FIGURE 7

Federally licensed firearm dealers per 100,000 residents by state, 2018



Source: Bureau of Alcohol, Tobacco, Firearms and Explosives, "Federal Firearms Listings," available at <https://www.atf.gov/firearms/listing-federal-firearms-licensees> (last accessed March 2020).

Gaps in gun industry oversight

The current approach to regulatory oversight of nearly every aspect of the gun industry is deeply flawed. Through a combination of restrictive laws, legislative limitations on ATF's ability to conduct regulatory activities, and insufficient federal resources devoted to this work, the gun industry in this country is effectively unregulated.

ATF resource limitations

The authority and obligation to enforce federal laws and regulations pertaining to the gun industry is vested in ATF. It is charged with enforcing federal criminal laws related to firearms, and ATF special agents work with their counterparts in other federal law enforcement agencies including the FBI, the U.S. Department of Homeland Security (DHS), and the Drug Enforcement Administration (DEA), as well as state and local law enforcement agencies. They identify, investigate, and refer for prosecution individuals and groups who violate federal gun laws by illegally possessing firearms, committing violent gun crimes, and illegally trafficking firearms both domestically and internationally.

However, ATF is also a regulatory agency responsible for conducting oversight of the gun industry and ensuring that all licensed manufacturers, importers, and dealers comply with federal law. This is perhaps ATF's most crucial role, as it is the only federal agency with this unique jurisdiction. In this role, ATF issues licenses to new businesses and conducts inspections to ensure compliance with all applicable laws and regulations and to identify potential illegal gun trafficking activity.

Despite the importance of this part of its mission, ATF has struggled for decades with serious budget limitations that disproportionately affect the agency's regulatory work. In 2019, ATF devoted 77 percent of its \$1.3 billion budget to law enforcement activities, leaving only \$299 million to support the personnel and services focused on providing regulatory oversight of the nation's gun manufacturers, importers, and dealers.⁶² The result: In 2019, ATF employed only 770 industry operations investigators (IOIs) in the field divisions—the professional staff who conduct compliance inspections of Federal Firearms Licensees—to oversee the more than 53,000 retail gun dealers and 13,000 licensed manufacturers that were in business that year.⁶³ These same personnel were also responsible for inspecting the more than 9,500 licensed explosives manufacturers and dealers in business that year.⁶⁴

This personnel shortage has serious consequences for efforts to ensure robust oversight of this industry. Under federal law, ATF is permitted to conduct one regulatory compliance inspection of each licensee per year, and ATF has set an internal goal of inspecting all gun dealers once every three years.⁶⁵ However, current resource limitations have left

the agency falling far short of either goal. In 2019, ATF investigators conducted only 13,079 compliance inspections of firearms licensees, meaning that 83 percent of those licensed by ATF to manufacture or distribute guns did not receive an inspection that year.⁶⁶ These inspections are crucially important: In fiscal year 2019, 47 percent of the licensees inspected were found to have violations, and the violations that were discovered ranged from failure to properly complete the paperwork necessary for crime gun tracing to failure to conduct a background check.⁶⁷ Because of the limited resources available for gun dealer compliance inspections, ATF generally prioritizes inspections of those dealers who are at risk for compliance issues, such as those who have had crime guns traced to them; have experienced theft; or are located near the southern border, where international gun trafficking often occurs, or in communities that have high violent crime rates.⁶⁸

This stands in stark contrast to the approach taken to conduct regulatory oversight of the explosives industry, another part of ATF's mission. While federal law allows no more than one permissive compliance inspection of federally licensed firearms dealers each year, it mandates that ATF conduct this type of inspection for each federally licensed explosives dealer once every three years.⁶⁹ The same pool of IOIs are responsible for conducting these inspections, which means they are required to prioritize them in order to comply with the law. As a result of more frequent inspections, federal explosives licensees have far fewer violations than firearms licensees. In 2019, ATF found that 80 percent of explosives licensees had no violations during their annual compliance inspection.⁷⁰ More importantly, though, explosives licensees are required to make available for ATF inspection relevant records and inventory "at all reasonable times," resulting in ATF authority to inspect as many times a year as may be required to ensure public safety.⁷¹ By contrast, ATF needs a warrant or other specifically enumerated reason to inspect a firearms licensee outside the once-per-year compliance inspection.⁷²

Compliance inspections are also a crucial tool for uncovering missing and stolen guns. ATF has become increasingly concerned with gun thefts from dealers, noting that burglaries of licensed gun dealers increased 48 percent from 2012 to 2016 and robberies increased 175 percent during the same period.⁷³ In 2019, 5,603 guns were reported stolen from gun dealers nationwide.⁷⁴ In addition to these thefts, a disturbing number of guns are also reported as lost or missing from the inventory of gun dealers, likely due to missing or incomplete paperwork about these sales.⁷⁵ In 2019, gun dealers across the country lost an additional 7,212 guns.⁷⁶ While dealers are required by law to promptly report thefts and losses to ATF, compliance inspections are a crucial tool in helping identify missing guns. In 2018, there were 1,163,980 guns initially determined to be missing from the inventory of gun dealers as a result of ATF compliance inspections. Following the inspection process, the vast majority of these guns were ultimately accounted for;

however, 15,461 guns remained missing after the inspections were completed.⁷⁷ These numbers also stand in stark contrast to the explosives industry, which is required by law to conduct annual inventory reconciliations⁷⁸—perhaps another reason there are far fewer violations for explosives licensees and certainly fewer missing explosives.⁷⁹

Legal restrictions on ATF activities

In addition to significant resource limitations, ATF's hands are tied by a constellation of restrictive laws and policy riders attached to the agency's budget that severely limit its ability to conduct effective oversight of the gun industry. The federal code includes a number of restrictive provisions that limit the effectiveness of ATF's oversight authority. For example, a federal law enacted in 1986 as part of FOIA explicitly prohibits the creation of a centralized federal database containing records of "firearms, firearms owners, or firearms transactions or dispositions."⁸⁰ The responsibility for keeping accurate records related to gun sales is therefore delegated to gun dealers, who are required by law to complete paperwork for each sale and maintain accurate records of these transactions.⁸¹ Timely access to accurate records related to gun sales becomes crucial when a gun is used in the commission of a crime and local law enforcement authorities need to trace it to determine the identity of the suspected perpetrator. Because federal authorities are prohibited by law from maintaining a database of gun sales, when a gun is recovered in connection with a crime and needs to be traced, ATF personnel must first contact the manufacturer to determine which wholesaler or dealer had the gun as part of its inventory, then contact those businesses to learn the identity of the first retail purchaser.⁸² This can be a time-consuming process: A routine trace can take a week, although an urgent trace is usually completed in 24 hours.⁸³ Additionally, because the transaction records are not allowed to be centralized, a gun trace will only lead to the identity of the first retail purchaser of a gun. If the gun was subsequently sold in a secondary transaction through another licensed gun dealer, that information will only be uncovered through more detailed and time-consuming investigative efforts. If it was subsequently sold in a private transaction in a state that does not require background checks for private sales, there will be no record of that sale at all.

Another weakness in the federal law limiting ATF's effectiveness in its oversight role is the lack of any statutory or regulatory authority to require gun dealers to take specific measures to minimize the risk of theft. Nothing in the federal law or ATF regulations imposes an affirmative obligation on gun dealers to implement practices to prevent theft, such as storing guns in secure safes or using other locking mechanisms during nonbusiness hours, improving physical security of the premises, or installing a security system. Indeed, the law does not even give ATF the authority to require that gun dealers lock their doors.⁸⁴ ATF provides suggested guidance to gun dealers about

best practices for securing their inventory and preventing theft—such as installing an alarm system, video surveillance, and door or window bars—but this guidance lacks the force of law.⁸⁵ John Ham, senior investigator and public information officer for ATF Kansas City, Missouri, explained the limitations of the law in an interview with *The Kansas City Star*: “We as an agency don’t have the regulatory authority to come in and say you have to have an alarm system, bars on the windows, cameras. . . . And while the vast majority of the industry has gone that direction themselves, it still hampers our ability to combat this as effectively as we’d like.”⁸⁶

Current federal law offers only limited options for ATF to take effective action against dealers who fail to comply with applicable laws and regulations or maintain control over their potentially dangerous inventory. ATF may revoke a federal firearms license if a dealer, importer, or manufacturer has “willfully violated” any provision in federal law related to the operation of their business, if they fail to have a gun lock available at the point of sale as required by law, or if they “willfully transfer” armor piercing ammunition.⁸⁷ ATF may suspend a license for up to six months or issue up to a \$5,000 fine if a licensee “knowingly transfers a firearm” without conducting a background check⁸⁸ and may suspend the license or issue up to a \$2,500 fine for selling a gun without offering a safe storage device.⁸⁹ Willfulness is not defined by statute or regulation, but ATF has provided guidance explaining that the term “is defined by case law to mean the intentional disregard of a known legal duty or plain indifference to a licensee’s legal obligations.”⁹⁰

That is the full slate of options for ATF to address noncompliance with laws and regulations by licensed gun dealers unless it seeks recourse in the criminal justice system.⁹¹ There is no administrative remedy in current federal law or regulation to penalize violations by dealers that jeopardize public safety but that result from negligence or recklessness. In the absence of legal authority to take meaningful action to address this type of violation by licensed gun dealers, ATF has created a relatively toothless approach: “If violations are discovered during the course of an FFL [Federal Firearms Licensee] inspection, the tools that ATF has available to guide the FFL into correction of such violations and to ensure future compliance include issuing a Report of Violations, sending a warning letter, and holding a warning conference with the industry member.”⁹²

As a matter of practice, ATF is failing to make effective use of these meager tools. Even when a gun dealer’s conduct does rise to the level of willfully violating the law, ATF has adopted a regulatory approach that leans away from taking strong action to revoke a license. An ATF fact sheet explains “that ATF does not revoke for every violation it finds; and that revocation actions are seldom initiated until after an FFL has been educated on the requirements of the laws and regulations and given an opportunity to voluntarily comply with them but has failed to do so.”⁹³ A 2018 investigation by *The New York Times*

prompted by a Freedom of Information Act lawsuit filed by Brady: United Against Gun Violence found that senior leadership at ATF “regularly overrule their own inspectors, allowing gun dealers who fail inspections to keep their licenses even after they were previously warned to follow the rules.”⁹⁴ Former ATF officials described numerous examples of agency leadership overruling recommendations by IOIs to revoke licenses held by dealers who repeatedly and willfully violated the law, including a gun dealer in Kentucky who repeatedly failed to conduct background checks and a dealer in Ohio who repeatedly sold guns to prohibited purchasers.⁹⁵ These former officials explained that ATF leadership was very concerned about having revocation decisions challenged in court and the potential political consequences of such lawsuits, with one interviewee explaining, “We used to kind of bend over backwards” to keep gun dealer businesses open.⁹⁶ As a result, revocation numbers are low. In 2019, out of the 2,594 violations found during compliance inspections, ATF recommended revoking a license in only 43.⁹⁷

By contrast, ATF has far greater authority over the explosives industry. For example, ATF may shut down a federal explosives licensee without having to meet the high standard of willful noncompliance under the agency’s broad “public interest” authority.⁹⁸ Other administrative agencies that regulate similarly dangerous commodities also hold greater powers to penalize noncompliant industry members. For instance, the DEA has far-reaching authority to suspend or revoke a registrant authorized to distribute narcotics for maintenance or detoxification treatment.⁹⁹ The DEA more generally may suspend pharmacy registrations in cases of “imminent danger to the public health or safety,” which is broadly defined to include a failure to “maintain effective controls against diversion” or otherwise comply with registration requirements, and in cases where due to such failure, “there is a substantial likelihood of an immediate threat [of] death, serious bodily harm, or abuse of a controlled substance.”¹⁰⁰ This latter threat of “abuse of a controlled substance” appears to give the DEA significant discretion in shutting down noncompliant pharmacies, and the agency has utilized this critical authority to close down pharmacies in response to the opioid crisis.¹⁰¹ Unfortunately, ATF wields no similarly far-reaching power to administratively shut down noncompliant firearms licensees where there may be a substantial likelihood of threat to public safety.

The DEA also enjoys additional legal advantages when it suspends a pharmacy’s registration, as the suspension may continue in effect until the conclusion of both the administrative proceedings and judicial review, unless the DEA elects to withdraw the suspension sooner.¹⁰² ATF, by contrast—even when it does initiate the rare revocation action—generally is required to allow FFLs to continue operating during both administrative actions and judicial review; the law provides that ATF “shall upon request of the holder of the license stay the effective date of revocation,” meaning that ATF has virtually no discretion to immediately shut down an FFL’s operations pending administrative review.

Restrictive budget riders

In addition to restrictive language in the U.S. Code, there are numerous limitations imposed on ATF's activities via riders attached to the agency's budget. Beginning in 1979, Congress has inserted more than a dozen restrictive policy directives into ATF's annual budget that prevent the agency from spending any federal funds on certain discrete activities.¹⁰³ The first such rider prevented the agency from creating a centralized database of gun transactions—the restriction that was later enshrined in the federal code through the enactment of FOIA. Another rider that was first imposed in 1996 further exacerbates ATF's challenges in performing timely crime gun traces by preventing ATF from consolidating into a searchable database transaction records from gun dealers that have gone out of business.¹⁰⁴ ATF therefore keeps physical copies of these out-of-business records in a warehouse in West Virginia, where they are often converted into microfilm.¹⁰⁵ Hundreds of thousands of paper records reside in bankers boxes stored in temporary cargo containers because the volume has exceeded storage space inside the National Tracing Center building. These records are subject to the elements since many of the containers leak, damaging some out-of-business records beyond legibility.¹⁰⁶

Some of the riders are specifically aimed at restricting ATF's ability to fully enforce federal laws related to gun dealers. One rider bans ATF from requiring gun dealers to conduct an annual inventory reconciliation to ensure that guns have not been lost or stolen.¹⁰⁷ Another prevents ATF from denying or refusing to renew a gun dealer's license due to lack of substantial business activity. This contributes to a glut of dealers, which makes it more difficult for ATF to effectively allocate its scarce regulatory resources. In addition, a rider first imposed in 1994 dictates that ATF may not “transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments,” meaning that the agency cannot address its significant resource gaps by seeking assistance to perform activities such as gun dealer inspections from better-resourced federal agencies such as the FBI or the DEA, which has similar experience regulating the pharmaceutical industry.¹⁰⁸

Another set of riders was first attached to ATF's budget in 2004 that, among other things, drastically limited the ability of ATF and other law enforcement agencies to use and disseminate trace data—data that links guns found at crime scenes to a manufacturer, the dealer that originally sold it, and possibly the identity of the owner. While the worst of these riders were later amended to minimize the impact on law enforcement investigations, a restriction remains that prevents the public dissemination of trace data other than in an aggregated annual report.¹⁰⁹ This means that researchers are unable to put their substantial expertise to use identifying complicated interstate and international gun trafficking patterns and policymakers are unable to develop data-informed laws and policies to identify and prevent common gun trafficking methods.

Other riders undermine ATF's ability to regulate certain categories of firearms that receive special treatment under the law: curios and relics. Under current federal regulations, curios and relics are defined as firearms "which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons."¹¹⁰ Any firearm that was manufactured at least 50 years ago qualifies as a curio or relic, as well as others of museum interest or that are otherwise rare or novel.¹¹¹

Curio and relic firearms occupy a unique place in the federal firearms licensing scheme. Individuals can obtain a collector's license from ATF that allows them to buy and sell curio and relic firearms much more freely than is usually permitted under federal law—including without a required background check—and that allows these licensees to transfer guns across state lines to each other, something that unlicensed individuals are prohibited from doing.¹¹² ATF maintains a list of all firearms that meet this classification; however, a rider first imposed in 1996 prevents ATF from changing the definition of curio or relic in the regulations or taking any firearms off the approved list as it existed in 1994.¹¹³ Constraining ATF's ability to evaluate the guns receiving curio or relic classification and requiring that the current definition remains unchanged means that there are dangerous, serviceable weapons in U.S. communities, including semi-automatic military surplus rifles manufactured only 50 years ago, which are subject to far less stringent regulations than comparable modern weapons. These are not merely antique guns that are locked away in display cases—modern Vietnam War-era military semiautomatic rifles still in military service, such as the SKS and Dragunov SVD, currently qualify as curios and relics.¹¹⁴ A related rider prevents ATF from denying an application for permission to import a firearm that is a curio or relic.¹¹⁵

Heightened regulation of certain types of firearms and accessories

Current federal law does not treat all types of firearms equally. For nearly 90 years, certain types of firearms and accessories have been deemed especially dangerous to public safety and are therefore subject to additional restrictions on their sale and possession. In 1934, in response to a deadly spike in organized crime, including marked increases in violence against police officers during Prohibition,¹¹⁶ the National Firearms Act was enacted. This law imposed heightened regulation over machine guns, short-barreled shotguns and rifles, and silencers (also known as suppressors), primarily by imposing a \$200 tax on the manufacture or transfer of these guns, as well as requiring individuals to register these guns with the federal government.¹¹⁷ The NFA has been amended a few times in the years since its enactment, although the \$200 tax has never been increased.¹¹⁸ Had the tax kept pace with inflation, it would have risen to around \$3,900 in 2020.¹¹⁹ The most significant change to the law occurred with the enactment of the Firearm Owners' Protection Act in 1986, which prohibited the possession or transfer of all machine guns entirely, except for those that were legally possessed prior to 1986.¹²⁰

Under the current iteration of the NFA, the following restrictions apply to NFA weapons and accessories:

- **Machine guns:** The possession, purchase, or transfer of a machine gun is prohibited except for those machine guns being used by government agencies or that were lawfully possessed before May 19, 1986, when FOPA became law.¹²¹ Machine guns possessed by civilians before 1986 are required to be registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives;¹²² lawfully registered possessors of machine guns are permitted to transfer machine guns to other lawfully registered possessors, provided they document the transfer with ATF and the recipient pays the \$200 transfer tax.¹²³
- **Short-barreled shotguns and rifles:** Manufacturers, importers, or dealers of these firearms need to obtain a specialized license from ATF.¹²⁴ Individuals seeking to purchase one of these firearms must complete an application and pay a \$200 transfer tax.¹²⁵ The transfer of these firearms to civilians requires notification to ATF, including registration of the firearm under the name of the recipient.¹²⁶

- **Silencers:** Manufacturers, importers, or dealers of silencers or devices built from parts intended to fabricate silencers need to obtain a license from ATF to engage in the business of producing or selling silencers, including paying a \$200 occupational tax.¹²⁷ Individuals seeking to purchase a silencer must complete an application and pay a \$200 transfer tax.¹²⁸

One of ATF's core regulatory responsibilities is to enforce the NFA. ATF's National Firearms Act Division is tasked with managing the National Firearms Registration and Transfer Record (NFRTR).¹²⁹ The NFA Division also processes all applications related to NFA firearms and silencers and updates the centralized NFRTR to account for changes in NFA-registered firearms, including noting when they are lost or stolen; modifications to the firearms; and the transfer, destruction, or export of these firearms. Additionally, the NFA Division maintains a record of Federal Firearms Licensees who import, manufacture, or sell NFA firearms. The division also serves as a resource for technical guidance to ATF offices throughout the nation.

The NFA was enacted in 1934 by Congress to address the existential threat of unrestricted commerce in military-grade firearms that was fueling vicious gang wars. The \$200 making-and-transfer tax levied on such firearms was prohibitive in 1934, Congress' intent being to stringently regulate sales of machine guns, short-barreled shotguns and rifles, and silencers, among other weapons commonly used by members of criminal organizations.¹³⁰ It should be noted that by 1930 law enforcement line-of-duty-deaths due to gunfire had climbed to well more than 300 that year and held steady until passage of the NFA, after which officer gunfire deaths dropped precipitously.¹³¹ Fast forward to 2020, fewer than 10 crimes have been committed using firearms registered on the NFA; Congress' intent continues to be realized as strict regulation of the most dangerous weapons keeps them out of criminal hands.¹³²

A looming public safety crisis: Short-barreled long guns

One of the most significant functions ATF serves is to determine which firearms, destructive devices, and accessories fall into the classifications of weapons that require heightened regulation under the NFA, including registration in the NFRTR or prohibition of sale in a consumer market. ATF's Firearms Technology Industry Services Branch (FTISB) serves as the technical authority to determine how firearms should be classified under federal law.¹³³ When a manufacturer of firearms and firearm accessories creates a new product that it wants to sell in the consumer market, it sends a sample to the FTISB to determine whether the firearm or the accessory would qualify as an NFA

weapon and therefore be subject to heightened regulation.¹³⁴ The FTISB examines and tests the sample, then issues a letter to the manufacturer with its determination of whether the firearm or accessory falls into an NFA category. The intent behind this regulatory process is to ensure firearms and firearm accessories that require additional regulation, as determined by federal law, are registered and taxed accordingly.¹³⁵

How bump stocks went from legal to illegal accessories

A recent example demonstrates the importance of this ATF regulatory function to protect public safety. In 2010, ATF received an application for review of a replacement stock, referred to by the manufacturer as a “bump stock,” which would be added to an AR-15 style rifle, purportedly to help people with limited hand mobility fire a rifle.¹³⁶ In effect, this accessory replicated the firing action of a fully automatic machine gun by harnessing the recoil of a semiautomatic firearm to continuously fire multiple bullets with a single trigger pull.¹³⁷ ATF’s initial review of the bump stock found that it did not qualify as a firearm under the NFA—meaning that it did not meet the statutory definition of a machine gun—and therefore could be sold as a firearm accessory without any additional restrictions or oversight.¹³⁸ On October 1, 2017, a shooter, armed with firearms, ammunition, and bump stocks, opened fire on

a music festival in Las Vegas, killing 58 people and injuring hundreds more.¹³⁹ Law enforcement on the scene and video footage of the attack showed that the use of bump stocks on multiple rifles enabled the shooter to mimic automatic fire during the rampage, firing more than 1,000 rounds of ammunition in just a few minutes.¹⁴⁰ Outrage over the shooting, coupled with widespread calls for banning bump stocks, with even the National Rifle Association publicly supporting restrictions on bump stocks,¹⁴¹ resulted in ATF reassessing its original determination on the devices and commencing a formal rulemaking process to reclassify bump stocks as machine guns. After receiving tens of thousands of comments supporting the proposed rule, in December 2018, ATF issued a final rule defining bump stocks as “firearms” under the NFA and therefore requiring heightened regulation under that law.¹⁴²

One common determination ATF is asked to make relates to whether a new firearm design qualifies as a short-barreled shotgun or rifle, which are more stringently regulated under the NFA than regular shotguns and rifles. The impetus for enhanced regulation and restrictions of short-barreled long guns is tied both to the ease with which these weapons are concealable and to the extent of damage these weapons are capable of inflicting when used to perpetrate a crime, given that they fire large-caliber ammunition capable of piercing the soft-body armor commonly worn by law enforcement officers.¹⁴³ Under federal law, both shotguns and rifles are, by definition, designed to be fired from the shoulder using two hands and are not easily concealable; they are subject to minimum barrel length and overall length requirements.¹⁴⁴ Congressional support for the original legislation passed in 1934 specifically referred to the extensive use of short-barreled shotguns and rifles by members of organized crime groups, including the weapons used to commit the 1929 St. Valentine’s Day Massacre in Chicago.¹⁴⁵

Despite the vital importance of ensuring that these dangerous weapons are not freely available in U.S. communities, recent user-based classification decisions by the FTISB raise serious concerns about how ATF is approaching this responsibility. An excellent example of the FTISB's failure to dutifully enforce the NFA is the line of Mossberg short-barreled shotguns. On March 2, 2017, the FTISB issued a letter to Mossberg regarding its new 12-gauge pump action firearm, model 590 "Shockwave." The letter specifically notes that the sample submitted by Mossberg has a 12-gauge, smooth-bore barrel that is approximately 14 and seven-sixteenths inches long, with a total length of 26-and-a-half inches.¹⁴⁶ The FTISB determined that this firearm did not qualify as a short-barreled shotgun under the NFA because it has a shotgun-style receiver but did not have a shoulder stock and instead had a "bird's head grip."¹⁴⁷ As a result, this gun can be purchased and possessed without any of the additional restrictions imposed by the NFA on short-barreled shotguns. However, the FTISB's determination came with a vital caveat. The FTISB letter stated, "Please note that if the subject firearm is concealed on a person, the classification with regard to the NFA may change."¹⁴⁸

This caveat from the FTISB is deeply problematic, as it essentially notes that the NFA classification of the firearm is dependent on the actual use of the firearm in each specific instance, rather than the fact that the firearm's dimensions make it concealable and thus a short-barreled shotgun as defined by current ATF regulations. The FTISB's letter to Mossberg implies that as long as users do not conceal this firearm, it does not require registration as an NFA firearm. That is patently at odds with the intent of the FTISB's role, which is to determine whether firearms based on their design and dimensions could, in any circumstances, be classified as NFA firearms. The determination should not be reliant on the use of the firearm in specific circumstances but on the technical specifications of the firearm itself, regardless of any particular user's intent. Some in the gun enthusiast community responded with both surprise and delight at this apparent new workaround to the NFA.¹⁴⁹

Mossberg has continued to exploit this NFA loophole, creating more Shockwave models that are essentially short-barreled shotguns without the NFA registration or tax requirements. The most recent editions of the Shockwave were released before the 2018 holidays and were highlighted in a The Firearm Blog post titled, "Fudge the NFA! NEW Mossberg 12 Gauge Shockwaves for 2019," that includes a review of the models that explicitly noted they all "are built on the 590 design, feature a 26.37" overall length, and have a bird's head grip allowing them their special non-NFA classification."¹⁵⁰ Mossberg's non-NFA short-barreled shotgun design has caught the attention of other gun manufacturers. Recently, Remington released the V3 TAC-13, a semiautomatic 12-gauge shotgun. Like the Shockwave, the V3 TAC-13 does not use a buttstock, equipped instead with a bird's head grip in a design that one reviewer dubbed "the tax stamp trick."¹⁵¹

The gun industry has also found another NFA dodge to create the functional equivalent of a short-barreled rifle that is not subject to heightened regulation or transfer tax: the pistol brace. Pistol braces are common firearms accessories first produced in 2013 by manufacturers claiming the intent was to help wounded and disabled veterans shoot AR-style pistols easier and more safely, by enabling a user to only rely on one hand to control and stabilize the firearm when using the brace, rather than needing to use both hands.¹⁵² In 2011, the company Shockwave Technologies submitted a new model of pistol brace to the FTISB for a determination of whether it would require registration under the NFA. ATF reviewed the Shockwave Blade AR pistol brace and determined that the brace would not turn a firearm into an NFA-classified firearm when used as a forearm brace and was therefore not subject to the requirements of the NFA. However, the letter of determination also included a crucial caveat, noting the brace “is not a ‘firearm’ as defined by the NFA provided the Blade AR Pistol Stabilizer is used as originally designed and NOT used as a shoulder stock.”¹⁵³ (emphasis in source) Again, ATF grounded its determination in the specific use of the accessory in each individual instance, rather than the potential uses based on its design, given that the brace can be used to “convert a complete weapon into . . . an NFA firearm.”¹⁵⁴ The FTISB’s decision was so unorthodox that it seemed to take gun enthusiasts by surprise, with The Truth About Guns blog posting an article on the decision stating, “The astute among you will notice that this device looks strikingly similar to a stock,” as well as linking to the determination letter with the words, “The reply was a bit surprising.”¹⁵⁵

This decision led to a proliferation of pistol braces that received similar decision letters from ATF, indicating that the industry seized on the opportunity to innovate around the NFA using the reasoning provided by ATF in the Shockwave letter.¹⁵⁶ However, the FTISB’s decisions on stabilizing braces were so unusual that the agency began to receive multiple inquiries from gun owners seeking clarification.¹⁵⁷ On January 16, 2015, ATF issued an open letter specifically on the “proper use of devices recently marketed as ‘stabilizing braces.’”¹⁵⁸ In the letter, ATF advised that the agency’s determination that these devices are not subject to the NFA “is based upon the use of the device as designed” and that if a pistol brace “is redesigned for use as a shoulder stock on a handgun with a rifled barrel under 16 inches in length,” the resulting firearm does constitute an NFA weapon.¹⁵⁹ The open letter advised that “any person who intends to use a handgun stabilizing brace as a shoulder stock on a pistol (having a rifled barrel under 16 inches in length or a smooth bore firearm with a barrel under 18 inches in length) must first file an ATF Form 1 and pay the applicable tax because the resulting firearm will be subject to all provisions of the NFA.”¹⁶⁰

The open letter appears to have caused confusion among people who were purchasing pistol braces, with many questioning whether the use of a brace required formal licensing under the NFA.¹⁶¹ SB Tactical, the creator of the original pistol brace, challenged the open letter's claims that using the brace and firing from the shoulder would create an NFA-classified firearm, resulting in a response from the FTISB, which reiterated that the agency deemed these braces to be legal provided they are used as forearm braces and not used as a shoulder stock.¹⁶² The clarification letter went further, stating, "ATF has concluded that attaching the brace to a handgun as a forearm brace does not 'make' a short-barreled rifle because in the configuration as submitted to and approved by FATD [ATF's Firearms and Ammunition Technology Division in which the FTISB sits], it is not intended to be and cannot comfortably be fired from the shoulder."¹⁶³ Additionally, according to the letter, if a user of a firearm equipped with a stabilizing brace does fire the weapon from the shoulder, it still doesn't constitute creating an NFA firearm unless the user explicitly "redesigned the firearm for purposes of the NFA."¹⁶⁴ Therefore, ATF's official determination on pistol braces is that AR-15 pistols can in fact be equipped with a brace and fired from the shoulder without creating an NFA-classified short-barrel rifle unless the brace is deliberately redesigned to become a stock, a clarification that was relished by gun forums, with The Truth About Guns writing a post detailing the decision with the title "YES, It is Legal to Shoulder an AR-15 Pistol Equipped with an Arm Brace."¹⁶⁵

ATF issued another notice on December 11, 2018, declaring that the FTISB will only review requests for determination of accessories under the NFA or Gun Control Act if the submission includes a firearm with the accessory attached as the user intended.¹⁶⁶ This approach essentially delegates the authority to determine whether a firearm or accessory qualifies under the NFA to the industry itself, which has a profit-driven motive to ensure that it does not. By asking manufacturers to send accessories already attached to firearms as they are purportedly intended to be used, ATF is abdicating itself of the responsibility to conduct thorough inspections to determine whether an accessory as designed could be used to turn a firearm into an NFA-categorized firearm. This approach involves an inappropriate level of deference to the manufacturers of these weapons and accessories that allows the marketing of a product to determine its classification under federal law.

Underground gun-makers

In addition to grave problems surrounding the lack of regulation of corporate manufacturing of firearms, ammunition, and firearm accessories, there exists an entire segment of the firearms industry that operates with even less oversight than traditional manufacturers: homemade firearms, ammunition, and firearm accessories makers. There is a robust online community of amateur gun-makers offering tips and tricks for making guns at home and selling kits to allow people to do so that often come very close to the line of what is legally permissible.¹⁶⁷ There are two primary concerns related to homemade firearms and accessories: First, these guns and accessories are often made using parts that can be purchased without a background check, creating an easy avenue for individuals prohibited from gun possession to evade that law and make guns at home. Second, homemade guns and accessories are often made with parts that are not required to include a serial number, rendering the finished firearm untraceable if it is later used in a crime.

Ghost guns

Under current federal law, gun manufacturers and importers are required to engrave a serial number on the frame or receiver of each firearm¹⁶⁸ and gun dealers are required to conduct a background check before selling any firearm.¹⁶⁹ The law defines “firearm” for purpose of these requirements in relevant part to mean “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive” or “the frame or receiver of any such weapon.”¹⁷⁰ A firearm’s frame or receiver are the structural components of a firearm that hold the key parts that enable it to actually shoot, defined by regulation as “that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism.”¹⁷¹ ATF has long interpreted this definition of firearm to include only fully finished firearms, frames, and receivers, meaning that those that are not technically finished and require a few additional steps before they can be used to make a fully functional gun are not subject to these legal requirements. Often referred to as “unfinished receivers” or “80 percent receivers,” these receivers generally only require a person to follow any of the myriad

tutorial videos or guides online and use basic tools to complete the receiver by drilling a few holes for the selector, trigger, or hammer pins.¹⁷² Guns made at home using these unfinished receivers have become known as “ghost guns” because they are untraceable when they are recovered after use in a crime.¹⁷³ A former ATF special agent described the ease with which fully functional guns can be made at home using these parts: “If you can put Ikea furniture together, you can make one of these.”¹⁷⁴

A robust segment of the gun industry has developed in recent years focused on manufacturing, marketing, and selling unfinished receivers. There is a vast array of online merchants selling kits for 80 percent receivers.¹⁷⁵ One website is called Ghost Guns, specializing in helping consumers “legally manufacture unserialized rifles and pistols in the comfort and privacy of home”¹⁷⁶; another is called 80 Percent Arms.¹⁷⁷ There is also a proliferation of information around how to build a gun using a gun kit with an unfinished receiver, much of which explicitly advertises how to make untraceable firearms without a background check at home.¹⁷⁸ For example, 80% Lowers is an online site with content dedicated to helping people build untraceable, unregistered firearms at home.¹⁷⁹ Gun University has a page dedicated to showing people how to build a Glock at home without a serial number or registration.¹⁸⁰ In 2013, *Mother Jones* reported on “build parties” that are hosted by expert gun assemblers to aid people building firearms without any background check, relying instead on people responding truthfully to a list of questions related to lawful firearm possession.¹⁸¹ Unfinished receivers have also added a new layer of difficulty to reducing international gun trafficking. For example, a 2016 report indicates that Mexican criminal organizations take advantage of trafficking in firearm parts to acquire guns, further complicating any efforts from security agencies on both sides of the border.¹⁸²

The dangers associated with ghost guns are not theoretical. In 2013, a shooter opened fire in Santa Monica, California, shooting 100 rounds, killing five people and injuring several others at a community college using a homemade AR-15 rifle.¹⁸³ Reporting indicates the shooter had previously tried to purchase a firearm from a licensed gun dealer and failed a background check, potentially indicating why he opted to order parts to build a gun instead.¹⁸⁴ In 2017, in Northern California, a man prohibited from possessing firearms ordered kits to build AR-15-style rifles.¹⁸⁵ On November 13, he initiated a series of shootings that began with fatally shooting his wife at home, followed by a rampage the next day during which he fired at multiple people in several different locations, including an elementary school, killing five people and injuring dozens more.¹⁸⁶ In 2019, a shooter used a homemade gun kit to build a .223-caliber firearm used in a bar in Dayton, Ohio, to fire 41 shots in 32 seconds, shooting 26 people and killing 9.¹⁸⁷ These kits create an easy way for individuals who are prohibited from buying a gun and could not pass a background check, such as the Dayton shooter, to easily evade that law and build a gun at home.¹⁸⁸

Law enforcement has grown increasingly concerned about the proliferation of ghost guns. In 2019, District of Columbia police recovered 115 ghost guns, a 360 percent increase from 2018, when they recovered 25 ghost guns, and a 3,733 percent increase from 2017, when only three such firearms were recovered.¹⁸⁹ In California, federal law enforcement reports that 30 percent of all guns recovered from crime scenes are blank, without a serial number, and are therefore untraceable.¹⁹⁰ The untraceable nature of these weapons makes them highly desirable for firearm traffickers and criminal organizations. In 2015, the New York Attorney General Eric Schneiderman authorized the Organized Crime Task Force and the New York State Police to conduct Operation Ghostbusters, focused on identifying a ghost guns trafficking ring.¹⁹¹ The outcome resulted in officers discovering a ghost gun construction operation that built fully functional firearms using unfinished receivers and firearm parts and then transferred them to firearm traffickers.¹⁹² The two men responsible for the ghost gun operation received sentences of nine and 11 years, respectively, for the criminal sale of firearms in the first degree, among other charges.¹⁹³ In 2018, the Los Angeles Police Department and ATF conducted an operation that found criminal organizations were relying on building arsenals using homemade firearm kits.¹⁹⁴ In addition, a new spike in online purchasing of ghost gun kits was reported when much of the country was staying at home during the onset of the coronavirus crisis as part of a larger surge in gun buying during this period.¹⁹⁵

Advancements in 3D printing technology have created another option for people seeking to make untraceable guns from home. While 3D printing an entire firearm has been successfully completed and is cause for some concern,¹⁹⁶ the more pressing concern is the capability of using 3D printers to create certain firearm components at home. For example, the lower receiver of an AR-15 in particular is essentially the part that makes a gun functional: It houses the fire control and trigger groups, the bolt catch, and the magazine release.¹⁹⁷ The ability to 3D print lower receivers means that individuals can produce or buy untraceable integral pieces of firearms from private sellers.¹⁹⁸ Recently, AR-15 upper receivers that house, among other things, the barrel and the bolt carrier group, have begun to be successfully 3D printed and used to fire hundreds of rounds.¹⁹⁹

To date, only two states, California and New Jersey, have enacted comprehensive laws to address the problem of homemade, untraceable firearms.²⁰⁰ In addition, federal law requires that guns contain a sufficient amount of metal to make them apparent when they are brought through metal detectors; however, 3D printed firearm components allow individuals an easy way to evade this law. There is currently no federal oversight on the production of 3D printed firearms or sufficient reporting requirements to ensure that these guns are produced with the necessary metal materials to follow federal regulations.²⁰¹

Homemade ammunition

Homemade ammunition, commonly called “reloads,” presents a different set of concerns. Ammunition is less regulated than firearms, without federally mandated background checks before purchase or transfer or requirements for documentation of sales of ammunition conducted by dealers.²⁰² Adding to the unknowns within the commercial ammunition market is the fact that there is currently no way to assess the scale or prevalence of homemade or reloaded ammunition. The lack of oversight or any real ability to monitor the production of homemade ammunition makes it difficult to determine exactly what types of ammunition rounds are being produced.

Gun enthusiasts often rely on similar online resources to obtain the materials needed to make cartridges at home, with access to videos and forums similar to those focused on homemade firearms, for personal use or to sell.²⁰³ Ammunition can be produced at home with the right equipment, shell casings, bullets, igniters, and powder, all of which are readily available online or at gun stores.²⁰⁴ Some people even choose to melt metal and cast their own casings or bullets without any safety regulations or agency oversight.²⁰⁵

There are many dangers associated with homemade ammunition, including stockpiling, improper or unsafe storage of ammunition and components, unsafe manufacturing conditions, poor quality control, and potentially defective products.²⁰⁶ Online forums include stories shared by people illustrating the dangers of reloaded ammunition, including sharing details of instances where reloaded ammunition resulted in damage to the firearm or injury to the user.²⁰⁷

Homemade silencers

Silencers are accessories designed to muffle or disguise the sound of gunfire. When used with a firearm, a silencer reduces the sound of gunfire and virtually eliminates muzzle flash, making it difficult for a shooter’s location to be determined. The danger posed by silencers was evidenced by the mass shooting in Virginia Beach on May 31, 2019. In that case, the shooter used two pistols, one equipped with a silencer, to commit a mass shooting within a municipal building that killed 12 people, wounding four others. Witness accounts note they did not recognize the sounds as gunfire, with one witness’ statement to police noting, “If it was a regular gunshot, we would’ve definitely known a lot sooner, even if we would’ve had 30 or 60 seconds more . . . I think we could’ve all secured ourselves . . . all of us could’ve barricaded ourselves in.”²⁰⁸

Federal law requires a license from ATF to manufacture or sell silencers, and individuals seeking to buy them must first obtain approval from ATF, a process that can take many months because of a backlog in processing these applications.²⁰⁹ In recent years, the gun lobby has included a push to deregulate silencers as a top priority for its federal legislative agenda, arguing that this measure is necessary to protect the hearing of recreational shooters (and their guide dogs) and titling the bill the Hearing Protection Act.²¹⁰ A larger bill that included similar provisions that would reduce federal regulation of silencer sales, treating silencers the same as non-NFA firearms under federal law, was passed by the House Committee on Natural Resources in September 2017 on a party-line vote.²¹¹ The dangerous push to deregulate silencers was bolstered following the leak of a white paper drafted by Ronald Turk, former associate deputy director of ATF, suggesting that the Trump administration support efforts to deregulate silencers by taking them out of the NFA, arguing that ATF's resources were being wasted in processing silencer applications.²¹² Following the October 2018 mass shooting in Las Vegas that left 58 people dead and hundreds injured, legislative efforts to deregulate silencers lost momentum.²¹³

Individuals are permitted under current federal law to manufacture their own silencer at home, as long as they do not offer it for sale and they register it with ATF.²¹⁴ This aspect of the law has created the opportunity for unscrupulous actors in the gun industry to sell firearm accessories that are not on their face silencers—such as solvent traps, barrel shrouds, or flashlight tubes—but that can be easily converted to this use with instructions found online or that have the effect of muffling the sound when used as a silencer.²¹⁵ ATF has taken enforcement action against some vendors for selling products that are effectively silencers without a license;²¹⁶ however, the agency's approach to this issue has been inconsistent, with ATF often relying on the stated purpose of the accessory, rather than its potential use as a silencer.²¹⁷

Regulating guns and ammunition for safety

Nearly every industry involved in manufacturing and selling consumer products is subject to regulation by the federal government to ensure that products are safe for consumer use. Safety-focused regulation of consumer products helps ensure that defects or problems with products are addressed in a timely manner through actions such as consumer alerts and product recalls. A range of federal agencies serve a consumer product safety regulatory function: Food items and prescription drugs are regulated by the Food and Drug Administration and the Drug Enforcement Administration, motor vehicles are under the jurisdiction of the National Highway Traffic Safety Administration, and recreational goods and household products are regulated by the Consumer Product Safety Commission (CPSC).²¹⁸

The CPSC was created in 1972 through the enactment of the Consumer Product Safety Act. The stated purpose of the creation of this new federal agency was to “protect the public against unreasonable risks of injuries and deaths associated with consumer products.”²¹⁹ The CPSC is charged with creating and enforcing mandatory standards for consumer products, issuing bans on consumer products deemed to be unsafe for public consumption, establishing voluntary standards for manufacturers and business to adopt, and overseeing recall procedures.²²⁰ The CPSC also conducts research on potential hazards and engages with manufacturers and consumers, educating the former on regulations and safe product development and the latter on the work of the CPSC.²²¹ The commission has jurisdiction over a vast array of consumer products, ranging from children’s toys and clothing to household appliances and chemicals to fireworks.²²² However, the CPSC does not have jurisdiction over automobiles, alcohol, cosmetics, drugs, firearms, food, pesticides, medical devices, or tobacco.²²³ Each of these has a specific separate agency²²⁴ that serves a regulatory and safety oversight function with one notable exception: firearms and ammunition. When the bill to create the CPSC was first debated in Congress in 1972, an effort led by Rep. John Dingell (D-MI)—who was a gun rights advocate and vocal supporter of the NRA at the time—exempted firearms and ammunition from the new agency’s jurisdiction.²²⁵ In 1975, efforts to amend the CPSC’s mandate to include firearms failed.²²⁶

The lack of consumer protection oversight of firearms and ammunition has resulted in injuries and death for users, without the same legal recourse or protection available to other consumers when facing similar dangers from products under CPSC’s jurisdiction.²²⁷ Consumers of firearms and ammunition are required to operate with a “buyer beware” approach, generally having to rely on the good faith of the industry itself or online gun forums or word of mouth for information on defective firearms or ammunition.²²⁸

The damage done by defective guns

There have been a number of high-profile incidents of design defects or manufacturing flaws of firearms leading to injury or risk of injury or death. In 2017, law enforcement and consumers began raising concerns about the SIG SAUER P320 pistol firing unintentionally.²²⁹ In February 2018, a sheriff’s deputy suffered a shattered femur when her pistol fired while she was removing it from a holster.²³⁰ In January 2017, a member of Stamford, Connecticut’s, Special Weapons and Tactics (SWAT) team was shot in the leg when he dropped this gun.²³¹ After these stories were publicized, the manufacturer was accused of being aware of the defective trigger mechanism: The pistol was originally produced to fill an army contract, and in testing, the gun’s design was found to be defective, with the gun sometimes firing if dropped.²³² Reporting suggests that SIG SAUER addressed the problem for the weapons sold to the army but continued selling the original design of the P320 pistol to law enforcement agencies and the civilian market without any modifications to ensure the gun was safe and would not fire when dropped.²³³ More than 500,000 of the defective pistols were sold on the commercial market before the manufacturer offered a voluntary trigger upgrade on the pistol model to improve the functionality and reliability of the firearm; however, in offering the upgrade, the manufacturer did not directly acknowledge any defects in the product, nor did the manufacturer issue a recall of the product.²³⁴ SIG SAUER released a statement on August 8, 2017, claiming that “the P320 meets U.S. standards for safety,”²³⁵ despite the fact that firearms are excluded from having a federal agency actually issue any federal standards for product safety.

This was not an isolated incident among gun manufacturers. In 2013, a class action lawsuit was filed alleging defects in certain models of Taurus handguns. The manufacturer settled the lawsuit and offered gun owners a refund or the opportunity to replace specific models of pistols, which had been manufactured from 1997 through 2013.²³⁶ However, these efforts did not result in mandatory removal of the guns from circulation, nor did the online post ensure that anyone who may have bought one of the recalled firearms was made aware of the risks. In 2016, it was reported that a PT-145 Millennium Pro pistol,

among the guns available for a full refund, was used by a 28-year-old man unaware of the problem with the firearm. It was reported that the gun fired while holstered, shooting its owner in the leg and striking the femoral artery, causing him to bleed to death.²³⁷ Only after his death did his family learn about the reported problems with the firearm and the manufacturer's offer to refund or replace the model of firearm.²³⁸ Furthermore, reporting indicates that many gun owners remained wary of the safety of Taurus pistols even after the class action lawsuit was settled.²³⁹ In 2015, a Taurus PT-609 pistol allegedly fired when the owner inserted an ammunition magazine, striking him in the hand, hitting his wife in the arm, and fatally shooting his 11-year-old son in the neck.²⁴⁰ In 2016, a Taurus pistol allegedly discharged while in the waistband of the gunowner, fatally shooting him in the leg; his family had no idea there were issues with Taurus pistols until after his death.²⁴¹ That same year, it was reported that a Taurus handgun not among the nine recalled models exploded in the hand of a veteran police officer who was using it at a firing range, resulting in the loss of a finger and permanent damage to the officer's hand.²⁴² At no point has Taurus publicly stated its firearms were defective, with reporting indicating it has continued stating its firearms are not defective.²⁴³

From May 1, 2006, through April 9, 2014,²⁴⁴ the Remington 700 series rifle was alleged to have a major defect reported by thousands of gun owners: The rifle reportedly fired without anyone pulling the trigger.²⁴⁵ It is reported that the gun's alleged faulty trigger mechanism killed at least two dozen people, injured more than 100 people, and resulted in more than 75 lawsuits.²⁴⁶ Following a settlement of a class action lawsuit in March 2017, the manufacturer began providing owners of specific rifle models the option to repair the rifles, receive a refund for any costs incurred to replace the trigger mechanism themselves, or receive a voucher to purchase other Remington products.²⁴⁷ The manufacturer issued an online statement telling gun owners that if they purchased a specific rifle with an X-Pro Trigger manufactured from May 2006 through April 9, 2014, it was subject to a safety recall due to issues with the bonding agent used on the trigger; the manufacturer's notice advised owners of these specific firearms to "stop using your firearm."²⁴⁸ From 2001 through 2010,²⁴⁹ Savage Arms allegedly produced a hunting rifle that exploded when fired, causing multiple people to suffer severe injuries, including finger amputation, burns, and hearing loss.²⁵⁰ The 10ML-II rifle was discontinued by Savage Arms in 2010 after nine years of production.²⁵¹ The company never issued a recall notice or safety warning that the rifles on the market were a safety hazard, despite reporting and allegations in lawsuits indicating the company was aware of the defective design.²⁵² The gun manufacturer argued that the explosions were caused by user error and improper loading of the rifle.²⁵³ The company is facing an ongoing class action lawsuit, with reporting indicating the company has claimed that reported problems with the firearm are due to user error.²⁵⁴

The importance of CPSC oversight of consumer products

The lax approach to ensuring the safety of firearms sold to consumers stands in stark contrast to how potential safety hazards posed by other consumer products are treated. In August 2017, L.L.Bean began selling a knife with a leather sheath. In April 2018, the product was recalled after the company received three reports of the knife cutting through the leather sheath, causing minor cuts. A replacement sheath was offered to all consumers who purchased the recalled product at no cost to the consumer and the company contacted all people known to have bought the recalled product to inform them of the problem.²⁵⁵ In October 2018, Cracker Barrel Old Country Store issued a recall on decorative pineapples, finding that the metal leaves posed potential laceration hazards, with two reports of consumers cutting their fingers on the ornamental fruit. The company recalled the product because of the risk of injury and offered a full refund.²⁵⁶

CPSC-regulated products may even be recalled because of the potential risk of injury to consumers before any actual injuries are reported. Fireworks are closely regulated by the CPSC to ensure they do not pose unique risks to consumers, including potential burn and injury hazards. In 2018, Miller Fireworks recalled a specific type of ball bullet rocket fireworks because they were overloaded—meaning that the explosive weight exceeded the allowable amount for consumer fireworks—which could result in the fireworks producing a larger explosion that could be a safety hazard.²⁵⁷ There were no reported injuries or incidents but the inspection by the CPSC determined the fireworks to be dangerous, resulting in the recall.²⁵⁸ Candles are

closely regulated to ensure they do not overheat and cause their glass containers to explode or present a fire hazard. For example, Bath Petals recalled soy candles from the market and offered a full refund after one reported incident of a candle shattering the glass holder.²⁵⁹ The incident had no injuries or property damage, yet the company recalled the product under CPSC guidelines.²⁶⁰

Some consumer goods are closely regulated by the Food and Drug Administration (FDA) instead of the CPSC.²⁶¹ The FDA has direct oversight over setting safety standards for consumer products such as drugs, food, cosmetics, and medical devices, with information about recalls of and safety concerns about various products.²⁶² For example, in April 2020, a manufacturer issued a recall notice on tubs of mixed nuts because peanuts were not declared on the label; the voluntary recall was issued to prevent serious injury for those allergic to peanuts, with the company offering consumers full refunds on returned products. The gravity of the error in packaging related to this recall included promises to consumers that the product would not return to production until both the manufacturer and the FDA felt certain the problem was corrected.²⁶³ Similarly, in May 2020, a pharmaceutical drug used to treat hypothyroidism was recalled after company testing found the product's potency to be significantly higher than the labeled dosage, with the company publishing through the FDA impacted product descriptions and lot numbers, as well as communicating with wholesalers of the product.²⁶⁴

Ironically, the CPSC does have jurisdiction to ensure the safety of firearm storage devices, such as gun safes, as well as toy guns and air rifles. There have been a number of product recalls due to defects in gun accessories that create the risk of accidental discharge of a gun. In May 2005, Michaels of Oregon and the CPSC announced a recall of a specific model of handgun holster because “the holster’s retention strap can move out of position and could cause a handgun to unexpectedly discharge while being reholstered, posing a serious injury risk to consumers.”²⁶⁵ This recall was announced after three reports of accidental firearm discharges related to the defect in the holster, including one in which a law enforcement officer was shot in the leg.²⁶⁶

A similar recall of holsters manufactured by First Samco Inc. was announced in June 2004, again out of concern that a defect in the holster could lead to an accidental firing of a gun.²⁶⁷ In September 2019, DIANA Stormrider voluntarily recalled 1,400 air rifles under the CPSC’s Fast Track Recall process because of a risk that it could “unexpectedly discharge even if the safety is engaged” and cause serious injury or death.²⁶⁸

The CPSC has also worked with manufacturers to recall gun locks and safes because of defects that create risk of unauthorized access to firearms. In March 2019, Alpha Guardian voluntarily recalled a gun safe because “a bolt malfunction can cause the safe to open without the use of a key or combination, allowing access to any firearms stored inside, posing an injury hazard.”²⁶⁹ Similar recalls of other models of gun safes were issued in August 2018,²⁷⁰ June 2016,²⁷¹ April 2014,²⁷² and April 2013.²⁷³ In May 2001, Sturm, Ruger & Co. Inc. and the CPSC announced a recall of 2 million gun locks because they could be opened by other keys or by blunt force, “potentially allowing unauthorized access to a firearm.”²⁷⁴

Delegating safety to the industry itself

The exclusion of firearms, firearm accessories, and ammunition from the jurisdiction of the CPSC or any other federal agency has left the responsibility to ensure the safety of these products to the industry itself. One gun industry trade association purports to serve this function: the Sporting Arms and Ammunition Manufacturers’ Institute (SAAMI). With origins as a source of technical information about firearms and ammunition production to the U.S. War Department during World War I,²⁷⁵ SAAMI is currently a membership organization serving the firearm and ammunition industry, with the mission to “create and promulgate technical, performance and safety standards for firearms.”²⁷⁶ However, unlike a government authority such as the CPSC or the FDA, SAAMI only creates suggested safety guidelines rather than mandatory safety regulations. Firearms and ammunition manufacturers are not bound to follow these standards.

SAAMI is not an independent oversight body but rather is deeply entwined with the gun industry, with leaders from the firearms industry prominently placed among SAAMI’s leadership. Joseph Bartozzi, elected in 2014 to be the chairman of SAAMI’s Board of Directors, was the senior vice president and general counsel of O.F. Mossberg & Sons, a gun manufacturer.²⁷⁷ Brett Flaughner was elected to be the vice-chairman of SAAMI’s board; Flaughner was the vice president of marketing, sales and strategy at Olin/Winchester.²⁷⁸ High-ranking members of the National Shooting Sports Foundation (NSSF), an association focused on advocating and protecting the

firearms industry, are also embedded within SAAMI's leadership: SAAMI's elected treasurer is John Smith, who also serves as the NSSF's vice president and chief financial officer, and SAAMI's secretary is Larry Keane, who serves as the NSSF's senior vice president and general counsel.²⁷⁹

An example of the limitations of SAAMI's effectiveness over potentially dangerous gun industry products involves the category of "+P" ammunition.²⁸⁰ +P ammunition refers to ammunition cartridges that have been loaded above the standard pressure for that specific type of cartridge, often referred to as an overloaded cartridge.²⁸¹ This technique is used to create a type of ammunition cartridge capable of firing a bullet at a higher velocity than if it were loaded per standard guidelines.²⁸² Gun owners have noted there are grave risks to both firearms and shooters when using these cartridges with firearms that are not designed to discharge them safely. If the firearm is not designed to shoot +P cartridges, the heightened pressure within the cartridge can result in the firearm exploding in the hands of the user when discharged, damaging the firearm and causing injury.²⁸³ The safety concerns are so notable that SAAMI created a resource for gun owners to identify firearms that should not use +P ammunition. However, SAAMI did not take any action directed at the manufacturers of +P ammunition to address these safety concerns. The SAAMI guidance places the onus on the user, noting that +P ammunition should only be used "in firearms especially designed for this cartridge and so recommended by the manufacturer," despite the fact that there are no binding, universal safety standards associated with firearms or ammunition manufacturing.²⁸⁴

Similarly, the NSSF provides resources for manufacturers about different laws and regulations.²⁸⁵ However, this role does not replace the role of an independent federal agency inspecting and regulating firearm production for safety. The NSSF is not focused on public health and safety. It's self-defined mission makes that evident: "As the firearms trade association, NSSF is working day in and day out to promote, protect and preserve our industry and our sports."²⁸⁶

Holding the industry accountable

In the late 1990s and early 2000s, municipalities across the country grappling with rising gun violence tried a new approach to the issue: suing the gun industry for the harm caused by its products. In addition to traditional product liability lawsuits alleging harm caused by design defects, some of these lawsuits used a novel legal argument—alleging that gun manufacturers created a public nuisance through sales practices that enabled firearms to be sold illegally in secondary markets and to be illegally trafficked, after which they ended up being used to commit violent crimes.²⁸⁷ These lawsuits alleged that gun manufacturers “design, produce, market and distribute handguns in a way they know supplies unlawful demand for such guns” and that they “know that a significant portion of their guns become crime guns, but they turn a blind eye so as to increase their profits, at the cost of many human lives and much human suffering.”²⁸⁸ New York City was a leader in these lawsuits, which sought injunctive relief in the form of mandating that gun manufacturers and dealers implement practices designed to reduce the risk of illegal sales, as well as damages.²⁸⁹

Not all of these lawsuits were successful, but many resulted in gun industry actors implementing new practices and standards to help reduce illegal gun trafficking. In 2000, Smith & Wesson, facing lawsuits from more than 15 cities, entered into a settlement agreement through which it agreed to adopt a number of new practices, including implementing a new code of conduct for authorized dealers that required them to conduct background checks at gun shows, placing second hidden serial numbers on firearms to facilitate tracing, providing a trigger lock with each gun sold, and limiting the ability of individuals to buy multiple firearms at the same time.²⁹⁰ President Bill Clinton hailed the agreement as “the very first time a gun manufacturer has committed to fundamentally change the way guns are designed, distributed and marketed.”²⁹¹ The NRA vociferously opposed this action by Smith & Wesson, leading to boycott efforts against the gun-maker that nearly put it out of business.²⁹² As a result of a lawsuit brought by New York City in 2006, 27 gun dealers in Georgia, Ohio, Pennsylvania, South Carolina, and Virginia entered into a settlement agreement in which they agreed to implement a series of best practices to reduce the risk of illegal gun trafficking, including videotaping sales, implementing a computerized system to track crime gun traces, and increasing training for employees.²⁹³

Lawsuits were also filed against individual gun dealers for negligent practices that resulted in violence. In 2002, two shooters went on a nine-month crime spree that left 17 people dead and seven injured, including 10 individuals killed in what are now infamously known as the Beltway sniper shootings. Federal agents traced the guns used in the attacks back to Bull's Eye Shooter Supply, a gun dealer located in Tacoma, Washington. Investigators discovered that the retailer failed to keep records of gun sales required by federal law and had lost more than 238 guns from its inventory over the previous three years.²⁹⁴ Victims' families sued Bull's Eye and the manufacturer, Bushmaster, arguing that the store was responsible for the shootings because of its negligent sales practices and that Bushmaster was responsible because it continued to supply firearms to the store despite the store's known negligence.²⁹⁵ In 2004, both the dealer and manufacturer entered into a \$2.5 million settlement. In addition to monetary damages paid by both parties, Bushmaster agreed to change its distribution practices.²⁹⁶

In 2005, following extensive lobbying by the NRA and others in the gun lobby, Congress passed the Protection of Lawful Commerce in Arms Act (PLCAA), which granted broad immunity from liability to gun manufacturers and dealers in federal and state courts. PLCAA was heralded by NRA CEO Wayne LaPierre as "a historic piece of legislation" and a significant victory for the gun industry.²⁹⁷ In 2011, the CEO of Sturm, Ruger declared that the enactment of PLCAA was "probably the only reason we have a U.S. firearms industry anymore."²⁹⁸ The American Bar Association opposed the bill, saying that it amounted to "unwarranted legislative interventions into what is properly the role of the courts" and that the law "would enact sweeping protections for this particular industry from ordinary civil actions, actions that have an historical basis in our civil courts that has existed throughout our nation's history."²⁹⁹ The measure was enacted as part of a broader congressional effort aimed at so-called tort reform: Shortly after PLCAA was enacted, Congress passed a similar bill to limit lawsuits against the restaurant industry for harm caused by obesity.³⁰⁰

Under PLCAA, a lawsuit may not be brought against a gun manufacturer or dealer seeking either monetary or injunctive relief for harm caused by "the criminal or unlawful misuse" of a firearm.³⁰¹ The law includes some narrow exceptions for permissible civil lawsuits against gun manufacturers and dealers, including for knowingly transferring a gun to a person with the knowledge that they intended to use it in a crime of violence, violating state or federal laws governing the conduct of the gun industry, negligent entrustment, breach of contract, or limited instances of design defects.³⁰² However, there is no exception to this broad grant of immunity if the manufacturer or dealer was demonstrably negligent or reckless in its sales and distribution practices.³⁰³ PLCAA also mandated that any cases pending at the time the law went into effect that did not meet any of these exceptions be "immediately dismissed."³⁰⁴

As a result of PLCAA, the gun industry has enjoyed special status among consumer product industries in the United States for 15 years. While other federal laws set some limitations on litigation against other industries—such as the cap on the amount of damages that can be awarded in lawsuits against the railroad and nuclear power industries³⁰⁵—no other industry enjoys this type of extensive blanket immunity against even the filing of lawsuits against manufacturers and retailers.

This law has had a significant chilling effect on efforts to hold the gun industry accountable through litigation. Since its enactment, only a handful of cases against gun manufacturers or dealers have survived pretrial motions to dismiss.³⁰⁶ Dozens of claims by victims and survivors of gun violence alleging reckless and negligent conduct by gun manufacturers and dealers have therefore been thrown out of court even before any evidence could be considered by a judge or jury. For example, in 2014, Lonnie and Sandy Phillips, whose daughter was killed in the 2012 Aurora, Colorado, theater shooting, sued the online retailer, Lucky Gunner, that sold the shooter thousands of rounds of ammunition and the 100-round ammunition magazine he used to kill 11 people. The Phillips' lawsuit claimed that Lucky Gunner's internet business practices did not provide reasonable safeguards to prevent potentially dangerous individuals from obtaining weapons.³⁰⁷ The case was dismissed under PLCAA, and—as a result of a combination of PLCAA and a Colorado state law that provides for attorneys' fees in unsuccessful cases against the gun industry—the Phillips were ordered to pay more than \$200,000 in legal fees to Lucky Gunner.³⁰⁸ In 2009, Hector Adames Jr. sued the handgun manufacturer Beretta after his 11-year-old son was killed when he was accidentally shot by a friend playing with his father's handgun. Adames' lawsuit asserted a product liability claim that Beretta not only failed to include an inexpensive device on the firearm that prevents a gun from firing without a magazine but also failed to include a warning that the weapon could be used without a magazine. The case was also dismissed under PLCAA.³⁰⁹

Consumers and society more broadly have benefited from the strategic use of civil litigation as a tool to influence consumer product industries. Litigation against motor vehicle manufacturers led to safety innovations,³¹⁰ and class action lawsuits against the tobacco industry resulted in an unprecedented settlement that drastically shifted its advertising methods and messaging and created a substantial fund to support public health efforts related to smoking abatement.³¹¹ Most recently, class action lawsuits filed against the manufacturers and distributors of opioids are poised to ensure that industry is held accountable for the harms caused by these actors in facilitating the opioid epidemic and that individuals and communities are compensated for these harms.³¹² However, PLCAA has deprived victims of gun violence from this avenue of recourse.

One recent bright spot in efforts to hold the gun industry accountable is a lawsuit filed by the families of some of those killed in the mass shooting at Sandy Hook Elementary School in December 2012 against the manufacturer of the firearm used in that attack, Remington. While a claim against Remington alleging that the company should be liable under the negligent entrustment exception to PLCAA failed, a separate claim arguing that the company violated a Connecticut state law that prohibits “immoral, unethical, oppressive or unscrupulous” business practices has survived numerous levels of pretrial scrutiny and is proceeding to trial, which is likely to begin in 2021.³¹³ Remington denies wrongdoing.³¹⁴ This claim alleges that Remington’s marketing practices for the firearm used in the attack violated state law by “extolling the militaristic and assaultive qualities of the rifle and reinforcing the image of the rifle as a combat weapon that is intended to be used for purposes of waging war and killing human beings.”³¹⁵

Policy recommendations to better regulate the gun industry

As the commercial industry solely responsible for manufacturing, marketing, and selling guns, ammunition, and gun accessories to the civilian public, the gun industry has a tremendous responsibility to take appropriate steps to minimize the misuse and criminal use of these products, as well as to ensure the safety of the products themselves. The industry has largely been left to regulate itself: A combination of weak laws and lack of resources and political will has led to the gun industry being effectively unregulated for decades. This honor system approach is simply not working—the gun industry continues to innovate around current law, introduce even more lethal weapons into civilian markets, and far too often, it balks at taking even modest measures to prevent gun trafficking. Policymakers need to take serious action to dramatically improve oversight of this industry to better protect U.S. communities from gun violence.

Increase oversight of gun manufacturers, importers, exporters, and dealers

The laws, regulations, and systems in place for providing regulatory oversight of the gun industry have failed to keep pace with the exponential growth of this industry over the past few decades. Both annual gun production and importation increased significantly beginning in 2008, and gun exports reached an all-time high in 2018. Similarly, the number of gun dealers increased by 18 percent from 2009 to 2018. The nation is long overdue for an overhaul of the laws, regulations, and administrative practices guiding and governing gun industry oversight.

Improve data collection and reporting

The Bureau of Alcohol, Tobacco, Firearms and Explosives publishes an annual report that offers only the most basic information on firearm commerce in this country. However, there are key gaps and missing pieces of data that should be collected and reported for public analysis and oversight. A more robust annual firearms commerce report should include the following:

- An analysis of how many assault-style firearms are manufactured, imported, and exported each year.³¹⁶
- A breakdown of the countries receiving U.S. gun exports by type of firearm, including assault weapons.
- Better data on the number of licensed manufacturers who maintain a license but do not manufacture any firearms during a specified year. To incentivize full compliance with manufacturing reporting requirements, ATF should condition the renewal of a license on the submission of these reports.
- Data on ammunition production in the United States, broken down by caliber and type of cartridge.
- Data on the number of licensee inspections broken down by type of license, state of business location, type of violations found, and penalties issued.

Increase resources for ATF to bolster gun industry oversight activities

Compounding the harm caused by the laws and budget riders impeding ATF's efforts to conduct effective regulatory oversight of the industry is the reality that the agency has not had sufficient resources to dedicate to this work for decades. ATF needs a substantial increase in its budget to hire additional personnel to conduct gun dealer compliance inspections. As the agency noted in its 2020 budget submission, "the lack of timely inspections presents an immediate and sustained risk to public safety."³¹⁷ In 2019, ATF employed 770 industry operations investigators who were available to conduct gun dealer compliance inspections, who collectively inspected 13,079 dealers. Using only a rudimentary analysis, this suggests that one IOI can inspect roughly 17 retail dealers per year, meaning that ATF would need 1,527 IOIs to meet its internal goal of inspecting every dealer once every three years.³¹⁸ Legislation has been introduced in the House of Representatives that would, among other things, provide an additional 650 IOIs to ATF.³¹⁹

Eliminate restrictive riders that hamper ATF's regulatory oversight activities

Layered on top of the already restrictive laws and meager funding the agency has been given to perform its crucial work, the restrictive riders attached to ATF's annual budget further inhibit the agency's ability to conduct effective industry oversight. The following riders must be repealed to untie the agency's hands and allow ATF to have access to the full range of regulatory and oversight activities:

- **The ban on consolidating gun sale records already in ATF's possession into a searchable format.** This restriction needlessly complicates the crime gun tracing process, wasting scarce agency resources and slowing down the time it takes to complete traces.
- **The ban on requiring gun dealers to conduct an annual inventory reconciliation to look for missing guns.** Instituting a mandatory FFL-conducted annual check of inventory would help quickly identify the thousands of firearms that are discovered lost or stolen from gun dealer inventory during compliance inspections every year, as well as help recover valuable IOI resources currently devoted to ATF-led inventory reconciliations.³²⁰
- **The ban on denying or refusing to renew a gun dealer license because of lack of business activity.** Allowing licensees to maintain their license even when they are no longer operating a viable business overcrowds the license population and unnecessarily increases the workload of ATF inspectors and administrative personnel.
- **The ban on transferring any of ATF's functions to another federal agency.** Eliminating this restriction would allow other Department of Justice component agencies, such as the FBI or the DEA, to help fill resource gaps by offering personnel to help with crucial ATF regulatory activities, such as conducting compliance inspections or processing NFA applications.
- **The ban on making trace data publicly available.** Offering more robust public trace data reports that include information about distinct trafficking patterns would help researchers and policymakers develop more targeted and effective policies to disrupt diversion of guns from legal to illegal streams of commerce.
- **The bans on changing the definition of what constitutes a "curio and relic" firearm and denying any application to import these guns.** These restrictions prevent ATF from operating a modern and flexible regulatory program poised to effectively respond to changes in the industry.

Update the law to provide sufficient tools to address violations by licensed gun dealers

Federal law needs to be updated to provide ATF with sufficient tools to address licensed gun dealers who are unable or refuse to comply with all legal requirements.

Congress should enact legislation updating the federal law to give ATF additional tools to work with the industry to ensure full compliance with the law. Increasing the options for civil penalties for gun dealers will help ensure that ATF leadership have options available that they are comfortable using and that are effective at helping dealers become fully compliant with the law. Such legislation should authorize ATF to:

Suspend the license of or issue a civil fine to a gun dealer who violates an applicable law or regulation regarding the operation of their business, regardless of the dealer's intent in committing the violation

- Suspend the license of a gun dealer who experiences a theft due to negligent security practices
- Revoke the license of a dealer with repeated violations, regardless of the dealer's intent in committing the violations
- Exercise discretion not to renew a license if the compliance inspection history demonstrates multiple negligent or reckless violations by the dealer
- Conduct multiple follow-up compliance inspections within a single year—on a graduated basis depending on the severity of the violations—after a dealer is found to have violated an applicable law or regulation governing the operation of their business

A number of bills have been introduced in Congress to address many of these gaps, including to eliminate harmful riders³²¹ and increase the available penalties for non-compliant gun dealers.³²²

Reverse regulatory change that weakened oversight of small arms exports

A substantial portion of the guns manufactured in the United States are exported to countries around the world, both for military and civilian markets. In January 2020, the Trump administration dramatically weakened oversight of these exports by shifting oversight to the Department of Commerce and eliminating the congressional notification requirement.³²³ The next administration and/or Congress should

reverse this change and reinstate strong export controls to ensure that U.S. firearms are not used to perpetuate human rights abuses abroad. This would also have the effect of restricting the ability of individuals to disseminate blueprints to make 3D printed guns or gun parts, particularly using online forums.³²⁴

Fully enforce the assault weapon import ban

Current federal law prohibits the importation of foreign-made firearms that are not determined by ATF to have a “sporting purpose.”³²⁵ While there was strong enforcement of this law beginning in 1989—that was reaffirmed in 1998 when the law was interpreted to prohibit the importation of most models of semiautomatic assault rifles that have military-style features—the enforcement of this law has been more lax in recent years, resulting in more prolific importation of these firearms into the U.S. market.³²⁶ ATF should conduct a fresh assessment of the status of firearm imports—similar to the review conducted in 1998—and issue new guidance clarifying that military-style assault weapons do not meet the sporting purposes requirement and may not be imported into the United States.

Require licensed gun dealers to implement security measures to prevent theft

Gun dealers have a significant responsibility to secure their dangerous inventory, and while many of them have succeeded under a voluntary honor system, it is crucial that the federal law is strengthened to actually mandate that gun dealers implement strong, commonsense security measures designed to prevent theft. At a minimum, this should include amending federal law to require that gun dealers store all guns in secure vaults, safes, or with locking devices during the hours that the store is closed. This is a basic step that most responsible business owners already take to protect their valuable inventory and should be a minimum requirement for all licensed gun dealers. A bill to implement this requirement has been introduced in Congress by Rep. Brad Schneider (D-IL) and Sen. Dick Durbin (D-IL).³²⁷ ATF should also engage in rulemaking to impose additional requirements on licensed gun dealers related to the use of security systems, video cameras, security gates, concrete bollards, and other methods of site-hardening. A bill introduced by Rep. Joseph Morelle (D-NY) would require the attorney general to engage in this rulemaking process and mandate that gun dealers submit a security plan to ATF detailing their approach to reducing the risk of theft consistent with the new regulations.³²⁸

Gun dealer security requirements can also be imposed as a matter of state law. To date, nine states and Washington, D.C. have enacted laws requiring gun dealers operating within their borders to implement certain specific security measures.³²⁹ In 2019, Illinois enacted a strong new law requiring gun dealers in the state to install an alarm system that notifies law enforcement when it is triggered and a video surveillance system that monitors store entrances and exits and locations where guns are stored and transactions take place, as well as to require dealers to develop a written storage plan for all firearms in their inventories.³³⁰

Strengthen the NFA review and determination process

The deferential approach ATF has taken regarding inspections and assessments to determine whether a firearm or accessory violates the National Firearms Act has created a clear power imbalance between ATF and gun manufacturers. Manufacturers are effectively operating outside the parameters of the law, with ATF failing to serve as a genuine check on the production of NFA firearms and firearm accessories available to the general public. In order to fulfill its mandate and properly enforce the NFA, ATF should realign the work of the Firearms Technology Industry Services Branch to inspect the designs of firearms and firearm accessories to determine whether the firearms or accessories are capable of being used in a manner that would categorize the weapon as an NFA firearm, rather than the current approach that considers only the stated intended use of the firearm or accessory as articulated by the manufacturer. The FTISB should also retract its guidance from December 11, 2018, stating that it would review accessories only if they were installed in a firearm as the manufacturer intended the accessory to be used.³³¹ Instead, the FTISB should assess accessories based on whether they could be installed in a firearm in a manner that converts the weapon into an NFA firearm.

ATF should also offer much more transparency into this decision-making process and make NFA decisions publicly available on its website. The inability for gun owners right now to obtain this information directly from the federal agency mandated to conduct NFA reviews and assessments is problematic and makes people reliant on getting this critical information from nonofficial sources such as internet blogs and forums. ATF should publish quarterly reports of all ATF firearms classifications, removing any sensitive information as it relates to criminal investigations or privacy concerns.

Finally, ATF should conduct a comprehensive review of all NFA decisions over the past 10 years and reassess whether the findings in those cases would change based on how the firearm or accessory was used by a gun owner. In cases where the non-NFA classification

letter noted that the classification of a firearm or an accessory may change if the firearm was concealed by the user or if the accessory was used as a shoulder stock, ATF should determine whether these firearms and/or accessories do, in fact, require NFA classification, registration, and taxation.

Strengthen oversight of homemade guns, ammunition, and silencers

One of the most glaring examples of how the law has failed to keep pace with innovation in the gun industry is the prevalence of homemade, untraceable guns made from unfinished receivers or 3D printing technology. Congress needs to update the law to address this dangerous gap that has been exploited by the industry to sell kits and parts that allow people to make untraceable and undetectable firearms and silencers at home.

Regulate unfinished receivers like completed firearms

The combination of an outdated law and legal interpretation by ATF has resulted in the development of a substantial subset of the consumer gun industry producing, marketing, and selling nearly finished firearm receivers and frames that can be turned into fully functional guns by individuals at home with basic tools and no specialized knowledge or skills. Unfinished receivers pose the same risk to public safety as completed firearms and should therefore be treated the same under the law. ATF should commence a rule-making process to update the regulations to clarify that unfinished receivers should be treated the same under the law as fully functional firearms for purposes of serial numbers and background checks. In December 2019, Everytown for Gun Safety filed a petition requesting this rulemaking,³³² and in a May 2020 interview, former Acting Director of ATF Thomas Brandon revealed that he pursued efforts to reclassify some gun-making kits as firearms but was unable to make significant progress prior to his retirement.³³³ In addition, Congress should enact legislation making this change to further reduce the risks of homemade guns, such as legislation that has been introduced by Rep. Adriano Espaillat (D-NY)³³⁴ and Rep. David Cicilline (D-RI).³³⁵ These requirements should also apply to firearm receivers and frames manufactured using a 3D printer.

Enforce the law against homemade silencers

Although current law places limits on the manufacture and sale of silencers, there is a robust online marketplace attempting to evade the law by offering for sale facially legal products, such as barrel shrouds or solvent traps, that actually function as silencers. Currently, ATF is inundated with applications for silencer manufacturing licenses while the underground industry continues to produce silencers, under the moniker of barrel shrouds or solvent traps or booms.³³⁶ ATF should revisit previous guidance regarding accessories that can be used as silencers and devote enforcement resources to targeting vendors seeking to subvert the law and illegally sell silencers without a license.

Regulate homemade ammunition manufacturing

The fact that there are no data available to measure the size and scale of the homemade ammunition industry illuminates the need for regulation and oversight of this sector. Licenses to make ammunition at home as well as licenses to sell homemade ammunition should be required, similar to licenses needed to manufacture or sell firearms. Additionally, ATF should issue guidelines on how to safely transport, store, and dispose of large quantities of homemade ammunition as well as the highly flammable propellant powder used to make ammunition cartridges.

Give the CPSC authority to regulate guns and ammunition for safety

Since 1975, there have been calls to create some form of safety regulation of the firearms industry, either by granting the Consumer Product Safety Commission jurisdiction over these products or empowering ATF to serve in that role.³³⁷ In 2016, then-Commissioner of the CPSC Marietta Robinson offered a detailed assessment of how the agency could be effective at regulating guns and ammunition for safety based on its work on other potentially dangerous consumer products. Robinson explained that CPSC could “collect and analyze data on unintentional gun-related injuries and deaths . . . work on voluntary or mandatory standards that would make it harder for children to shoot guns to which they gain access, prevent adults from accidentally shooting guns they thought were unloaded, and reduce accidental discharges.”³³⁸ Robinson added that the CPSC could also “work with manufacturers and retailers on recalls of guns and ammunition with design or manufacturing defects that make them unsafe.”³³⁹

Firearms and ammunition manufactures have enjoyed unprecedented freedom from meaningful federal safety regulations for far too long. Congress must pass legislation to empower a federal regulatory agency to monitor guns and ammunition for safety risks, work with the industry to create standards for these products to minimize accidents, and issue recalls to protect consumers from known design flaws and defects in these already inherently dangerous products. The CPSC is well-positioned to serve this function, and legislation has been introduced in Congress to amend consumer product safety laws to expand the definition of consumer products to include firearms and ammunition.³⁴⁰ ATF could also be granted authority to provide oversight of the safety of guns and ammunition sold to civilian consumers. Regardless of which agency was empowered with this function, Congress would also need to provide sufficient additional funding to enable that agency to complete it effectively.

Repeal PLCAA

By immunizing the gun industry from most civil lawsuits, PLCAA has effectively absolved gun-makers and dealers from any responsibility to take affirmative steps to help prevent dangerous or illegal use of their products and removed an incentive for the industry to innovate to improve the safety of its products and commercial channels used to sell them. This law has also harmed victims and survivors of gun violence by shutting the courthouse doors to most claims against the industry for damages caused by gun industry products and practices, leaving them without recourse to recoup financial losses.

Bills to repeal PLCAA and put the gun industry back on the same footing as most other potentially dangerous consumer product industries have been introduced in both houses of Congress.³⁴¹ According to analysis by the Giffords Law Center, 34 states have also enacted state laws offering immunity from certain types of litigation for the gun industry, which exacerbate the harm caused by PLCAA.³⁴²

Conclusion

The gun industry is a primary player in the public health epidemic of gun violence yet receives very little attention in the national debate over how to address the problem. As a result of powerful lobbying efforts, for decades this industry has been effectively unregulated due to a constellation of weak laws, restrictive caveats on ATF's authority, and an overall lack of political will to seriously address the glaring problems with how gun manufacturers, importers, and dealers are allowed to operate. The gun industry has a tremendous responsibility to take affirmative steps to help ensure that the weapons it puts into communities in the United States and abroad do not continue to cause devastating harm. And it is far past time for our laws and administrative policies to catch up to that reality.

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Acknowledgments

The authors wish to thank Mark D. Jones and Michelle Vanneman for technical assistance and support for this report.

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We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, American Progress can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

