



Biden wrong on claim about gun manufacturers and liability protections

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In the wake of the deadly elementary school shooting in Uvalde, Texas, President Joe Biden repeated an inaccurate talking point in his push for gun control legislation, saying that gun manufacturers represent the "only industry" with liability immunity.

"We should repeal the liability shield that often protects gun manufacturers from being sued for the death and destruction caused by their weapons," Biden wrote in a June 2 tweet. "They're the only industry in the country that has this kind of immunity. It's outrageous. It must end." He said the same thing in a speech about gun violence (around the 18:28-minute mark).

This isn't the first time Biden has made this claim. He's made it repeatedly, including April 2021 remarks about gun violence after a man went on a shooting rampage at three spas in the Atlanta area, killing eight, and another gunman killed 10 people at a grocery store in Boulder, Colorado. He said it again in his 2022 State of the Union address.

But the claim is inaccurate.

The gun industry is susceptible to some lawsuits, and there are federal laws restricting liability for a number of other types of businesses.

We reached out to the White House for comment but did not hear back.

Gun industry protection

The legislation at issue is the Protection of Lawful Commerce in Arms Act, which was signed into law in 2005 by President George W. Bush. The law says gun dealers and manufacturers cannot be sued when their products are misused.

But the law lists several situations that are not protected from liability. It doesn't protect gun dealers who transfer a gun knowing it would be used for criminal purposes, nor those who knowingly break state or federal law if the violation results in harm. Gun manufacturers can also be sued for certain injuries due to gun design defects.

Supporters say the law protects gun dealers and manufacturers from frivolous and expensive proceedings, while opponents argue that the broadness of the law and its narrow exceptions stops some victims from having their day in court.

But this is different from saying the gun industry is immune to all lawsuits.

For example, in 2019, the Supreme Court allowed a lawsuit brought by nine Sandy Hook victims' families against gun manufacturer Remington Arms Company to continue. Remington Arms manufactured the gun used in the mass shooting and the plaintiffs sought to hold the company partly responsible by targeting its marketing practices. The families settled with the gunmaker in February for \$73 million.

Not the only industry

Other industries have exemptions in liability.

For example, a 1980s-era law states that vaccine manufacturers cannot be held liable in civil suits brought by victims of injuries that they saw were caused by defective vaccines. This differs from the gun legislation, however, because it established the Vaccine Injury Compensation Program, through which alleged victims can make a claim and receive compensation. This money comes from the government, not the companies.

It's also important to note that, until 2024, pharmaceutical companies that make the COVID-19 vaccines will have liability immunity under a 2005 public health law.

There's also some liability protection in the medical devices and airline industries, Walter Olson, senior fellow at the libertarian Cato Institute and expert in tort law, previously told PolitiFact. For example, the 1994 General Aviation Revitalization Act said that small aircraft manufacturers cannot be sued for accidents involving aircraft more than 18 years old.

"It's not at all unique to the gun industry. It's a version (of liability law) Congress developed for an industry that was under very heavy attack," Olson said, referring to the slew of litigation against gun sellers and makers that prompted Congress to pass the law.

Our ruling

Biden said that gun manufacturers represent the only industry in America that is exempt from being sued.

This isn't accurate. The gun industry is not entirely exempt from being sued and is susceptible to some lawsuits. Further, there are federal laws that restrict liability for a variety of other business sectors.

We rate it False.