



Written by [Bob Adelman](#) on August 15, 2023

Illinois' Latest Anti-gun Law Immediately Challenged in Court

On Saturday, anti-gun Illinois Governor JB Pritzker [signed a bill into law](#) that was [immediately challenged as unconstitutional](#). But this time it isn't the Second Amendment that is contested, but the First.

Illinois' new law prohibits gun makers and dealers from marketing their products "in a manner that reasonably appears ... to encourage individuals to engage in unlawful paramilitary or private militia activity in Illinois." The new law, in addition to infringing on the freedom of speech, also prohibits makers and sellers from using "sizes, colors, or designs that are specifically designed to be used by, or appeal to, minors."

In addition, the law prohibits the "sale, manufacturing, importing, or marketing of a firearm-related product ... anywhere in the country ... if an Illinois judge or jury finds" the victim guilty of violating the new law.

This is how anti-gun politicians hope to emasculate and eventually eliminate all gun makers and dealers in the country: involve them in defending against such frivolous, silly, illogical, and clearly unconstitutional laws. It doesn't matter that the new Illinois law could not be enforced even if it were allowed to remain in effect. That isn't the point.

Richard Pearson, representing the Illinois State Rifle Association, was spot on: "It is really a bill to harass gun manufacturers.... It opens them up to frivolous lawsuits, which is designed to bankrupt them in one way or another."

The lawsuit, brought by the National Shooting Sports Foundation (NSSF) and filed on Monday in district court, "challenges the constitutionality of [the new law which is] specifically designed to evade the judgment of Congress — and the Constitution [of the United States]."

The law "does not impose liability on individuals who misuse firearms ... [but] regulates selling, manufacturing, and advertising ... firearms."

This makes as much sense as holding car makers liable for the behavior of owners of their cars while driving drunk.

The law contravenes a federal law that protects gun makers from precisely this type of harassment, designed to sue them into oblivion: the Protection of Lawful Commerce in Arms Act, signed into law overwhelmingly in 2005. It intentionally protects firearms makers and dealers from being held liable when crimes are committed using their products.

Lawrence Keane, NSSF's general counsel, condensed the group's lawsuit into a statement worthy of



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being bronzed:

The flawed logic of this unconstitutional law is second only to the contempt for which the authors and Governor Pritzker hold for the Constitutionally protected right of the citizens of his state to keep and bear arms.

This law bans commercial free speech, which is protected by the First Amendment.

It also requires firearm manufacturers and retailers to establish undefined “reasonable controls” to prevent criminals from lying on background check forms.

The irony is that the firearm industry works hand-in-hand with the ATF and Justice Department to prevent illegal straw purchases of firearms while the governor signs laws that set criminals free on the streets to prey on the innocent citizens of Illinois.

Just like Governor Pritzker’s signature on a law banning cash bail, this law empowers criminals and punishes those who obey the law.

We are confident that this unconstitutional law will not survive.

The lawsuit challenges Pritzker’s new anti-gun law for violating not only the First Amendment but the Second and the Fourth as well, including its violations of the Due Process Clause and the Commerce Clause enumerated in Article 1, Section 8, Clause 3: only the U.S. Congress has the power to “regulate commerce ... among the several states.”

Said Keane:

[Laws like these] are at odds with bedrock principles of American law, which does not hold manufacturers and sellers legally responsible for the actions of criminals and remote third parties over whom the manufacturer and seller have no control when they misuse lawfully sold products.

It bears repeating: Courts will toss laws like Pritzker’s, but only after gun manufacturers and gun dealers have hired expensive lawyers through their associations such as the NSSF to have them dismissed.



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