

**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: July 11, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

FROM: Sharon M. Tso *Sharon M. Tso* Council File No: 15-0002-S196  
Chief Legislative Analyst Assignment No: 16-06-0557

SUBJECT: Resolution (Koretz – O’Farrell) to support HR 4399 (Schiff) and S. 2469 (Blumenthal)

CLA RECOMMENDATION: Adopt Resolution (Koretz – O’Farrell) to include in the City’s 2015 – 2016 Federal Legislative Program SUPPORT for HR 4399 (Schiff)/S. 2469 (Blumenthal), the Equal Access to Justice for Victims of Gun Violence Act.

SUMMARY

On June 24, 2016, a Resolution (Koretz – O’Farrell) was introduced in support of HR 4399/S. 2469, the Equal Access to Justice for Victims of Gun Violence Act, which would repeal the Protection of Lawful Commerce in Arms Act (PLCAA), legislation passed by congress which granted the firearms industry special protections from civil lawsuits brought by victims of gun violence. The Resolution states that the PLCAA provides the gun industry with protections that no other industry has, and that firearms manufacturers are immune from liability under basic products liability law. The Resolution further states that this prevents victims of gun violence from holding manufacturers accountable for not including safety features on their products.

The Resolution states that HR 4399/S. 2469 would repeal the PLCAA, which the Brady Campaign to Prevent Gun Violence asserts is unconstitutional. The Resolution, therefore, seeks an official position of the City of Los Angeles to support HR 4399/S. 2469, the Equal Access to Justice for Victims of Gun Violence Act.

BACKGROUND

In 2005, Congress passed the Protection of Lawful Commerce in Arms Act (PLCAA), which granted immunity to firearms manufacturers, distributors and dealers from civil liability in state and federal court from negligence and product liability actions. The PLCAA granted firearms businesses unique protections under federal law that are not available to any other type of product manufacturer in the United States. Further, this immunity disincentives firearms manufacturers from developing new safety measures or ensuring that firearms include safety devices that would make the cost of manufacturing firearms more expensive. Further, because the PLCAA gives immunity to firearms vendors in many cases, the incentive to ensure that a firearms purchaser is not making a purchase on behalf of another person, known as a straw purchase, is severely reduced. Straw purchases are a significant source of guns used in violent crimes in the United States.

HR 4399 and S. 2469, the Equal Access to Justice for Victims of Gun Violence Act, would repeal the PLCAA, and restore liability to gun manufacturers, distributors and dealers, and would ensure that bad actors in the firearms industry can be held liable for their actions. This legislation would restore the rights of individuals to hold a firearm manufacturer liable for their product, as one can for manufacturers for any other product. This legislation is supported by a variety of gun control advocacy groups, including the Brady Campaign Against Gun Violence and the Coalition to Stop Gun Violence.

DEPARTMENTS NOTIFIED

None

BILL STATUS

*HR 4399*

02/01/2016

Introduced. Referred to the House Committee on the Judiciary

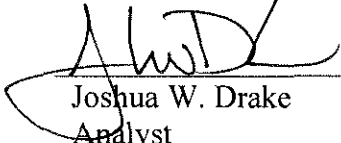
02/29/2016

Referred to the Subcommittee on the Constitution and Civil Justice

*S. 2469*

01/27/2016

Introduced in the Senate



Joshua W. Drake  
Analyst

SMT:MF:jwd

Attachment: Resolution (Koretz – O’Farrell)  
HR 4399 (Schiff)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Los Angeles and communities across the nation are perpetually held hostage to gun violence. With guns being the most dangerous product on the consumer market, taking over 30,000 lives a year in countless crimes and tragedies, it is time to hold the gun industry responsible for the safety and security of their product; and

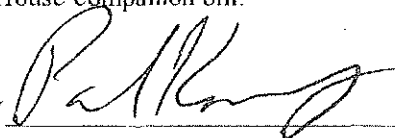
WHEREAS, the Protection of Lawful Commerce in Arms Act (P.L. 109-92) (PLCAA) provides the corporate gun industry special protection from civil justice law that no other industry has. Under the PLCAA, gun manufacturers who refuse to install life-saving safety devices on their weapons are immune from liability under basic products liability law, preventing victims from holding manufacturers accountable for not including necessary safety improvements to their products. which Equal Access to Justice for Victims of Gun Violence Act, S. 2469, and H.R. 4399,, is set to repeal; and

WHEREAS, families affected by a lack of gun safety mechanisms are effectively silenced by the PLCAA. The Adames family is one such example. After their 13-year-old son was killed by a friend playing with his father's loaded handgun, the Adames family sued the manufacturer of the gun for failing to install inexpensive safety mechanisms that could have prevented the shooting. Their efforts to hold the gun manufacturer accountable were thwarted because the PLCAA was applied retroactively to deprive the family of their right to seek justice in the courts; and

WHEREAS, the Brady Campaign to Prevent Gun Violence asserts that the PLCAA is unconstitutional by depriving gun violence victims of their right to civil justice, and by allowing the federal government to intervene in state affairs by infringing on the long-standing rights of state courts to determine the duties and obligations that are owed between the people and businesses in that community under the 5<sup>th</sup> and the 10<sup>th</sup> amendment's respectively; and


WHEREAS, Congress is set to take up "the Equal Access to Justice for Victims of Gun Violence" (S. 2469 and H.R. 4399) which will repeal the PLCAA.

NOW, THEREFORE BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 Federal Legislative Program in SUPPORT of the Equal Access to Justice for Victims of Gun Violence Act, S. 2469, a bill to repeal the Protection of Lawful Commerce in Arms Act, and H.R. 4399, the House companion bill.

PRESENTED BY 

PAUL KORETZ

Councilmember, 5<sup>th</sup> District

SECONDED BY 



114TH CONGRESS  
2D SESSION

# H. R. 4399

To repeal the Protection of Lawful Commerce in Arms Act, and provide for the discoverability and admissibility of gun trace information in civil proceedings.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2016

Mr. SCHIFF (for himself, Mr. VAN HOLLEN, Mr. CONYERS, Ms. SLAUGHTER, Mr. CICILLINE, Mr. SERRANO, Ms. NORTON, Ms. BONAMICI, Mrs. NAPOLITANO, Ms. MCCOLLUM, Ms. ESTY, Mr. HASTINGS, Mr. HIMES, Mr. BEYER, Mr. BLUMENAUER, Ms. JUDY CHU of California, Mr. COHEN, Mr. DESAULNIER, Mr. DEUTCH, Ms. DUCKWORTH, Ms. EDWARDS, Ms. FRANKEL of Florida, Ms. KELLY of Illinois, Mrs. LAWRENCE, Mr. TED LIEU of California, Mr. LOWENTHAL, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. SEAN PATRICK MALONEY of New York, Ms. MATSUI, Ms. MOORE, Mr. NADLER, Mr. QUIGLEY, Mr. SWALWELL of California, Mr. TAKANO, Ms. TSONGAS, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To repeal the Protection of Lawful Commerce in Arms Act, and provide for the discoverability and admissibility of gun trace information in civil proceedings.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Equal Access to Jus-  
3 tice for Victims of Gun Violence Act”.

4 **SEC. 2. REPEAL OF CERTAIN PROVISIONS OF THE PROTEC-**  
5 **TION OF LAWFUL COMMERCE IN ARMS ACT.**

6 Sections 2 through 4 of the Protection of Lawful  
7 Commerce in Arms Act (15 U.S.C. 7901–7903) are re-  
8 pealed.

9 **SEC. 3. DISCOVERABILITY AND ADMISSIBILITY OF GUN**  
10 **TRACE INFORMATION IN CIVIL PRO-**  
11 **CEEDINGS.**

12 The contents of the Firearms Trace System database  
13 maintained by the National Trace Center of the Bureau  
14 of Alcohol, Tobacco, Firearms and Explosives shall not be  
15 immune from legal process, shall be subject to subpoena  
16 or other discovery, shall be admissible as evidence, and  
17 may be used, relied on, or disclosed in any manner, and  
18 testimony or other evidence may be permitted based on  
19 the data, on the same basis as other information, in a civil  
20 action in any State (including the District of Columbia)  
21 or Federal court or in an administrative proceeding.

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