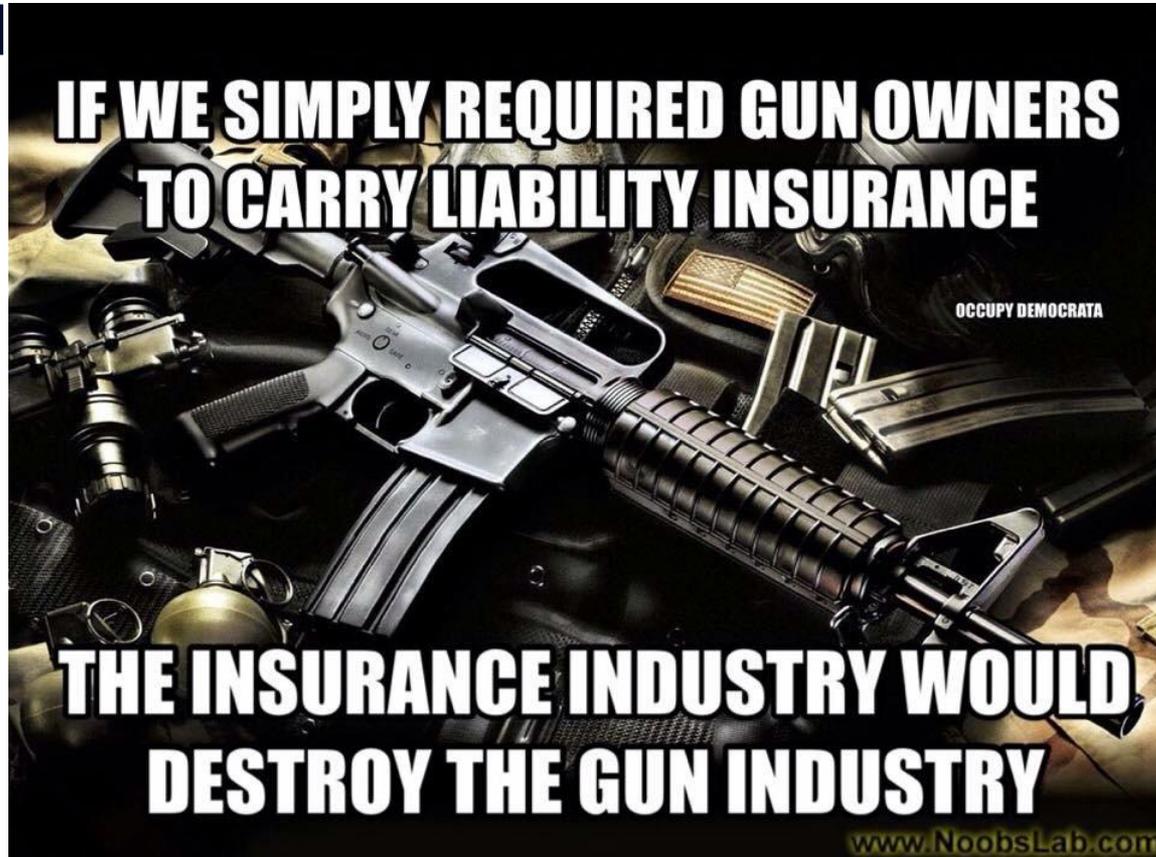


Can Liability Insurance Reduce Gun Violence?
CAS Spring Meeting: May 24, 2017

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Naïve Hope or Irrational Fear?

Liability Insurance

3 Primary goals:

- Protect Policyholder financial assets and security
- Victim Compensation
- Risk Mitigation and Loss Control

Balancing these goals is ultimately a matter of public policy, not private contract law

How could liability insurance reduce gun violence?

Insurers as Private Regulators

- Leverage Insurers' ability to collect and analyze data into risk classifications
- Utilize risk-based pricing to encourage safer gun purchases, storage and use
- Support research on firearm safety

*Would help reduce accidents and suicides
involving firearms, But:*

2014 Firearm Deaths: 33,594

Center for Disease Control

What do you think? [Audience votes]

| Cause | Percent of Total ? |
|---------------|--------------------|
| Unintentional | |
| Homicide | |
| Suicide | |

Insurance & Suicide Reduction

Supporting research on gun safety and enforcing appropriate practices through risk-based underwriting

- Suicide Success Rates:
 - By firearms: 70-90%
 - All Other Means: 10-15%
- Prevent or delay access to firearms from unauthorized users (children & teenagers) – “best practices” in storing and safeguarding firearms
- Many attempted suicides are “impulse” decisions; delaying access to firearms even briefly can reduce suicide rates

Insurance & Suicide Reduction

But ... what is the underwriting to claim link?

Actuaries likely in best position to evaluate - and determine how and why (or if) property casualty insurers should care about gun ownership, use and safety

Current Coverage Homeowners Policies

- Negligence claims generally covered – broad coverage territory
- Few, if any, specific firearm exclusions
- Possible coverage for negligence claims related to an intentional shooting (e.g., “negligent entrustment”)
- Self Defense exceptions to Intentional Harm Exclusions

Limitations to Coverage Homeowners Policies

- Intentional Harm Exclusions
- Uncertainties related to Self-Defense
Exceptions to these Exclusions
- Separate Exclusions for Criminal or
Wrongful Acts

Insurance & Intentional Harm

- Intentional Harm exclusions narrowing coverage for negligent claims arising out of intentional or reckless conduct with a firearm
- Reducing liability coverage for other family members
- Expansion of Intentional Harm exclusions reduces policyholder protection and victim compensation and not tied to traditional moral hazard concerns (another story)

Insurance & Intentional Harm

ISO 00 03 05 11: “Damages for bodily injury caused by an occurrence”

Liability Coverage does not apply to:

- "Bodily injury" or "property damage" which is expected or intended by ~~an~~ [the] "insured", **even if the resulting "bodily injury" or "property damage":**
- **Is of a different kind, quality or degree than initially expected or intended; or**
- **Is sustained by a different person, entity or property than initially expected or intended.**

[Text in Red Represents Expansion Language]

Limitations to Coverage

Looking at the Self-Defense Exception

ISO Exception:

However, this Exclusion E.1. does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force by an "insured" to protect persons or property

- Not in all HO Policies
- Uncertainties regarding coverage – heavily fact dependent
- Doesn't apply to criminal prosecutions

Insuring Crime?

“Insurers don’t cover illegal acts, ever, period.”

Your reaction to this comment is ...

- A. Of course they don’t! Who would think otherwise?
- B. Absolutely incorrect. Insurance has long covered a variety of illegal acts
- C. This is a nuanced question difficult to answer in the abstract, requires more research, consideration of policy language, state law - I can’t commit
- D. Have they refilled the coffee containers yet?

Mandating Insurance Coverage for Wrongful Acts?

- Likely within State regulatory power -numerous examples, such as UM/UIM, NY Standard Fire Terms
- Tie to homeowners and renters insurance
- Mandatory offer and purchase reduces moral hazard issues and market reluctance
- Liability insurance already covers some intentional and/or wrongful acts: - DWI, Prof. Liability defense for fraudulent actions, sexual abuse endorsements, “innocent co-insureds” (mortgage lenders)
- 2nd Amendment Rights – limitations on regulatory power?
- Ultimately a legislative decision, & a political one

Mandate the Offer and Require the Purchase?

Problems:

- Still minimal underwriting linkage between liability insurance and suicides, which account for largest percentage of firearm deaths
- Individuals most likely to intentionally shoot someone unlikely to purchase “mandatory” insurance
- Unpopular with insurers (little profit and lots of headaches) and many gun owners

Mandate the Offer and Require the Purchase?

- Would place insurers into a highly contentious debate, with low profit potential (?) and lots of headaches.
- But



“Carry Guard”

New NRA insurance product which provides up to \$1 Million in civil liability coverage *and* up to \$150,000 in criminal defense fees.

Underwritten by Chubb

<https://www.nracarryguard.com/>

[Article on NRA & Self Defense Insurance The Trace April 2017](#)

“I will never carry a gun without carrying this.” NRA Ad.



IF YOU ARE FORCED TO ACT IN LAWFUL SELF-DEFENSE:

DANA LOESCH
MEMBER NO. **0123456**
MEMBER SINCE **04 18 2017**

1 CALL 9-1-1
Identify and describe yourself and your location.
Provide information to ensure safe arrival of first responders.

2 WAIT FOR THE POLICE
Follow officers' commands.
Identify the attacker.
Tell police you are exercising your right to remain silent until you speak to a lawyer.

3 CALL NRA CARRY GUARD

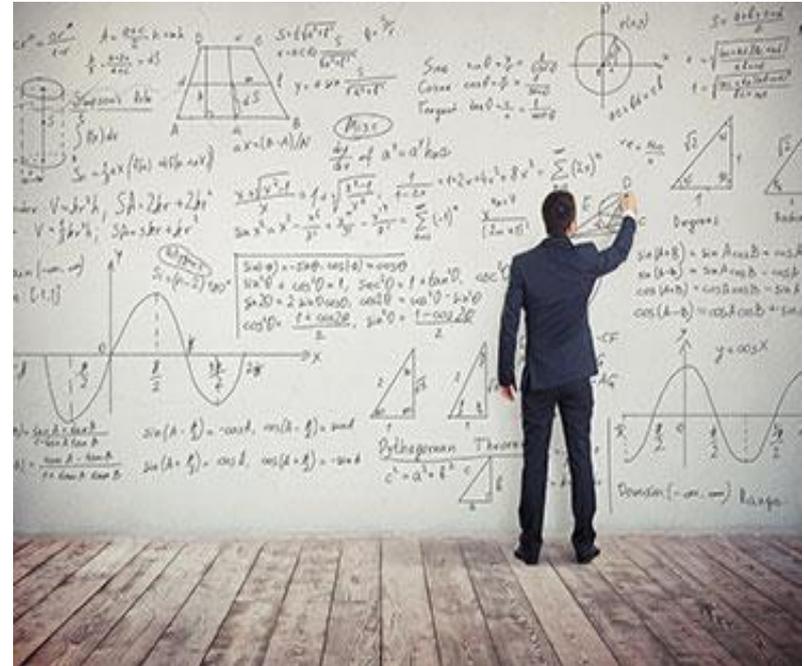
NRA | **CARRY GUARD.**
is backed by **CHUBB**

For Inquiries, call 1-866-NRA-5050

For more information, visit NRACarryGuard.com

Mandatory Offer & Purchase?

- Will actuaries be able to accurately predict risk, and recommend appropriate rates?
- Will marketing pressures deter insurers from actually charging appropriate rates?
- Will regulators allow actuarially adequate rates, particularly as gun rights issues are often acrimonious and divisive?
- Need for a residual market?





Liability Insurance & Firearm Legislation

In 2013 after the Sandy Hook massacre, at least 7 states introduced bills mandating liability insurance for gun owners, some requiring coverage for intentional shootings. None passed.

Liability Insurance & Firearm Legislation

- In 2017? Only aware of one bill – NY AB 2260: \$250,000 minimum, covering negligent acts
- Federal **Affordable Care Act** prohibits collection of firearm ownership info. 42 USC § 300gg-17(c)
- **Florida** has gone the other way:
 - Florida Statute 626.9541
 - Florida Statute 790.338(7)

Florida Statute 790.338(7)

- An insurer . . . may not deny coverage, increase any premium, or otherwise discriminate against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership or possession of a firearm or ammunition or the lawful use or storage of a firearm or ammunition . . .

(emphasis added)

Unanswered Questions

- 2nd Amendment: would mandatory liability insurance for gun owners be constitutional?
- Can insurers access sufficient information to accurately assess and price risk? Will the States allow them to do so?
- What risk classifications would be acceptable?
- And, is coverage for intentional acts necessary and if so, how would such acts be insured?



Who Really Holds the Power?*

Thank You

*Connecticut has the highest concentration of actuaries in the United States