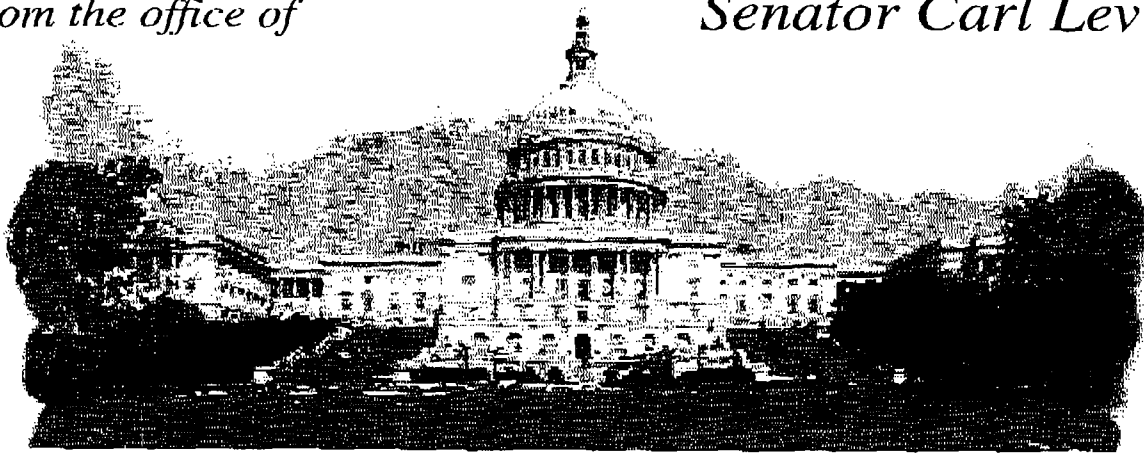


From the office of

Senator Carl Levin



(Please deliver to) Deanne Benos

(Date) 11/16/99

(Fax number) 456-7028

(From) Ilona Cohen

(Time) _____

Total number of pages including this page 4

If you do not receive all the pages, please call 202-224-6221- 9104

Additional comments:

- Levin would not change the amendment -- We told him that we would probably endorse it if he amended it, but doubtful.
- Way too broad, and would include any kind of lawsuit against a gun manufacturer, any kind of tort -- not a contract dispute. Could include a gun manufacturer with one defective product, product liability. There is the current lawsuits that use product liability to promote safety. However, if they have a defective handle or something. When they wrote the bill, they tried to include every possible argument that a city would bring against a gun manufacturer.
- Under current law, a business can discharge their debts under Chapter 11 under product liability lawsuits.
- A gun manufacturer should not be treated differently from a defective car manufacturer.
- We would have narrowed the amendment to say that it has to be some kind of public good or safety or health initiative -- then can't discharge the debts.
- If a gun manufacturer is filing in "bad faith," then a judge can already not allow them to file bankruptcy.
- Why should they be treated differently than other industries such as tobacco.
- The whole purpose of Chapter 11 is to keep businesses functioning, to keep investment in the economy, create a payment plan so that creditors get the money because they stay in business. This would be the first time we would allow an industry to not file.
- Creates a rush to the court house -- the amendment does away with automatic stay where no creditor can come and get your money after you file.
- Partyline vote -- not a lot of pressure from Daschle.

**Violence Policy Center**

1140 19th Street, NW
Suite 600
Washington, DC 20036

202.822.8200 voice
202.822.8205 fax
www.vpc.org web

FAX TRANSMISSION COVER SHEET

TO:

Deanne Benos

FAX:

FROM:

Kirsten Rand

DATE:

TOTAL NUMBER OF PAGES (INCLUDING COVER): 7

MESSAGE:

*456-7028**11 USC
sect 523**Maureen & Thompson
(Consumer Bankruptcy
Attorneys)
P- 703/276-
1116
att 2*

**Violence Policy Center**

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DON'T LET GUN MANUFACTURERS "TAKE ADVANTAGE OF THE SYSTEM"**SUPPORT THE LEVIN AMENDMENT TO THE BANKRUPTCY BILL
TO HOLD GUNMAKERS RESPONSIBLE FOR DEFECTIVE GUNS**

The Levin amendment to S. 625 will ensure that gun manufacturers cannot discharge debts incurred as a result of consumer lawsuits for defectively designed and manufactured firearms.

The Levin amendment is necessary to ensure that firearm manufacturers—which ~~are exempt from federal health and safety regulation~~—remain accountable for civil liability to consumers injured by negligent or reckless industry behavior. Lack of health and safety regulation means that the civil justice system is the only mechanism available to regulate the conduct of gun manufacturers.

At least three major gun manufacturers have sought bankruptcy protection specifically to protect themselves from product liability claims.

Lorcin Engineering arrogantly stated in 1996 that it was filing for bankruptcy to protect the company from at least 18 pending liability suits. Lorcin officials stated to *Firearms Business*—a gun industry trade publication—that the company chose to "take advantage of the system" when it decided that it could not defend against liability claims. Furthermore, at a 1996 meeting of creditors, the U.S. Bankruptcy Trustee posed the following question to Lorcin's attorney, "The triggering factor [of the bankruptcy] was the Texas lawsuit, but there were three or four others that could also be a problem?" Lorcin's lawyer responded, "Yep."

In 1993, Lorcin was the number one pistol manufacturer in America, churning out 341,243 guns. Many of Lorcin's handguns are of such poor quality they are ineligible for importation under the Bureau of Alcohol, Tobacco and Firearms' (ATF) "sporting purpose" test. Lorcin's .380 pistol regularly tops the list of all guns traced to crime by ATF.

Davis Industries, also motivated by pending product liability claims as well as lawsuits filed by U.S. cities including Chicago, New Orleans, Miami, Atlanta, Cleveland, Los Angeles, and Detroit filed for bankruptcy protection in May 1999. Davis manufactured nearly 40,000 guns in 1997, the last year for which figures are available.

*Alana - Levin
P-4-9104*

*Thinks - Wednesday
- Floor amendment
(Bankruptcy or
Floor note)*

Sundance Industries also sought bankruptcy protection in August 1999. As a result, the Superior Court of California enjoined the City of Los Angeles from pursuing Sundance in the city's lawsuit to recover costs inflicted on the city as a result of gun violence.

Many more gun manufacturers may soon choose to follow in the footsteps of Lorcin, Davis, and Sundance to escape responsibility for suits filed recently by U.S. cities.

More than 25 cities and counties have filed lawsuits against the gun industry. These lawsuits allege that firearm manufacturers have produced and sold defectively designed firearms, and engaged in negligent marketing and distribution practices resulting in countless deaths and injuries in America's cities. The NAACP has filed a similar lawsuit. Lawyers for the cities are very concerned that bankruptcy will become a common gun industry defense tool.

Many other consumer lawsuits are pending against gun manufacturers.

For example, Glock is the defendant in a case recently certified as a nation-wide class action. The class includes individuals and police officers injured by unintentional discharges of Glock handguns. The suit alleges that Glock handguns, including those used by many police departments, contain design defects long known to the manufacturer.

Gun manufacturers must not be allowed to use bankruptcy to escape accountability when their reckless or negligent conduct causes death and injury. **Vote to protect victims of gun violence. Support the Levin amendment to S. 625.**

For more information please call Kristen Rand at 822-8200 ext. 102.

more gun control. While Gephardt acknowledged that none of the current proposals being bandied about by the conference committee handling the juvenile justice legislation would have stopped recent shootings, he nonetheless advocated the passage of more restrictions. While the speakers vilified NRA for standing in the way of "common sense" gun control legislation, they ignored the fact that it was the House Democrats, who by and large, rejected legislation by one of their own -- Rep. John Dingell (D-Mich.) -- that would have required NICS checks on all transactions at gun shows. The anti-gun Democratic House leadership is willing to forsake virtually any legislation in the belief they can score political points in the 2000 elections. This press conference followed on the heels of a similar ranting earlier in the week, where other supporters of gun control re-hashed HCI statistics and arguments, and pilloried NRA.

"COMPROMISE" PROPOSAL FLOATED?

While the juvenile justice legislation is still pending in a conference committee, reports of a "compromise" proposal concerning the gun show issue have been circulating on Capitol Hill. Under this draft proposal, records of approved purchases under NICS would be destroyed "within 24 hours." This is unacceptable to NRA, for the law says that purchases not denied under NICS must be destroyed immediately. The draft also envisions a modified three-day delay in circumstances where the system discovers an arrest or other similar record indicating that transfer of the firearm may violate the law. Like the 24-hour record retention, we also oppose this three-day wait provision, as the NICS system was intended to approve transfers "if the receipt of a firearm would not violate" federal or state law. Mere arrest records, which may not contain final dispositions, are inconsistent with the stated purpose of NICS. Only convictions, not arrests, are disqualifiers for gun ownership. Rather than applying band-aids to the current shortcomings of NICS, we will continue to ask Congress to address the core problems concerning deficiencies with the system.

➤ ANTI-GUN LEGISLATION MAY BE ON THE MOVE IN THE SENATE NEXT WEEK! ⬅

While the anti-gunners in the House have been giving speeches about the need for more gun laws, anti-gunners in the Senate, led by Sen. Dick Durbin (D-Ill.), were actively plotting to force a vote on an anti-gun amendment on the Senate floor, perhaps as early as Monday. Realizing their best chance to pass restrictions on our rights may be in hijacking other legislative vehicles pending in the Senate, the anti-gunners may push to amend the Senate's bankruptcy bill with legislation prohibiting firearm and ammunition manufacturers from filing for bankruptcy if they lose a reckless lawsuit. Clearly, this amounts to yet another back door, anti-gun scheme to further disadvantage lawful firearm and ammunition manufacturers in their battle to survive attacks in the form of such reckless litigation. It is critical that you contact your two U.S. Senators as soon as possible at (202) 224-3121, in opposition to any anti-gun amendments to the Senate bankruptcy bill or any other legislation. Don't forget you can quickly and easily send your U.S. Senators e-mail with the "Write to Congress" feature at the NRA-ILA web site.

*this doesn't
impact
those with
suits filed
against
them?*

NRA-ILA Grassroots**11250 Waples Mill Road, Fairfax, VA 22030****Become an NRA-ILA Grassroots Volunteer****Send This Page****NRA-ILA Fax Alert****Vol. 6, No. 43 - 11/05/99****HESTON PROMOTES "PROJECT EXILE" ON CAPITOL HILL --****Anti-Gunners Counter By Plotting To Push Gun Control Legislation Next Week (see below)**

Yesterday, NRA President Charlton Heston testified before the House Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, reiterating NRA's calls for Congress to appropriate \$50 million to implement "Project Exile" in cities across the country. Heston's testimony highlighted the impact "simply enforcing federal gun laws" has on reducing violent crime. President Heston made his point in part by highlighting the fact that the city where "Project Exile" was first hatched, Richmond, Virginia, had more BATF-instigated prosecutions of gun law violations in 1998 than California, New Jersey, New York, and Washington, D.C., combined! Despite the lip service the Clinton-Gore-Reno Administration often gives to the merit of enforcing existing law, its actions speak louder than its words. Mr. Heston informed the committee of the recent Syracuse University study (see FAX Alert Vol. 6, No. 34) that showed under this Administration, BATF prosecutions have declined by 44%! As he pointed out in his testimony, BATF's response to this prosecutorial neglect has been: "...we (BATF) seek to prosecute the few sharks at the top rather than the numerous guppies of criminal enterprise." Mr. Heston eloquently laid out the case that the Administration's words concerning prosecutions do not in any way match its deeds, referencing a Justice Department spokesman who told USA Today, "...it's not the federal government's role to prosecute" these gun cases. And as if one needed any more proof that this Administration cares not for enforcing laws, but rather seeks political advantage, Mr. Heston highlighted a statement made by Janet Reno's Deputy, Eric Holder, who ridiculed "Project Exile" as a "cookie cutter" approach and called it "fundamentally wrong" to earmark funds to enforce existing federal gun laws. For a copy of Charlton Heston's entire testimony, visit our website (www.nraila.org), or contact the Grassroots Division at (800) 392-8683.

Not to be outdone, the anti-gunners held their own press conference later that day in which they blamed NRA for the current stalemate over the congressional juvenile justice bill. Featuring such "luminaries" as Vice President Al Gore, House Minority Leader Richard Gephardt (Mo.), Senator Ted Kennedy (D-Mass.), and Ranking Member of the House Judiciary Committee, John Conyers (D-Mich.), the message was clear -- we need

HANDGUN CONTROL

**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.**

November 9, 1999

The Honorable Carl Levin
United States Senate
459 Russell
Washington, DC 20510

Dear Senator Levin:

I am writing in support of the amendment to S.625, the Bankruptcy Reform Act of 1999 sponsored by Senators Levin, Durbin, Wyden, Kennedy, Feinstein, Lautenberg, and Schumer. This amendment would prevent firearm manufacturers, distributors and dealers from filing for Chapter 11 bankruptcy protection to evade wrongful death and personal injury lawsuits caused by their dangerous products.

As you know, several cities and their residents have filed suits against the gun industry to recover some of the costs of gun violence and to attempt to encourage more responsible conduct by the industry in the future. These suits attack two basic problems caused by irresponsible practices of the gun industry. One is the failure to make guns as safe as possible and failing to include many simple, life-saving safety devices in their guns. The other is the irresponsible distribution of guns which enables and fosters the criminal use of guns.

Gun manufacturers, distributors, and dealers should not be able to evade these legitimate claims for damages by filing for bankruptcy. In 1996, Lorcin Engineering Company, one of the chief manufacturers of "Saturday Night Specials" or "junk guns" filed for Chapter 11 bankruptcy to protect itself from multiple product liability lawsuits. Other gun manufacturers, like Davis Industries and Sundance Industries, have followed Lorcin's lead and have filed for bankruptcy to avoid liability. We must not allow other firearms companies to take advantage of the bankruptcy system.

I urge you to support this important amendment.

Sincerely,

Sarah Brady
Chair

Handgun Control, 1225 Eye Street, NW, Suite 1100, Washington, DC 20005 • (202) 898-0792 • FAX (202) 371-9615
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705 12th Avenue, San Diego, CA 92101 • (619) 235-9167 • FAX (619) 233-6682
www.handguncontrol.org

A18 YNE

THURSDAY, JUNE 24, 1999

National Report

The New York Times

Lawsuits Lead Gun Maker To File for Bankruptcy

By FOX BUTTERFIELD

In the first sign of the impact of the growing number of municipal lawsuits against the gun industry, a well-known manufacturer of handguns has filed for bankruptcy protection, raising concern among city officials across the country that other firearms companies may also use bankruptcy to try to avoid the suits.

The bankruptcy filer, Davis Industries, one of a group of companies in suburban Los Angeles that are controlled by a single family and its friends, produces Saturday night specials, cheap handguns favored by criminals. Davis is one of the 10 largest makers of handguns, and studies have found that its products tend to be characterized by a short "time to crime" — that is, a remarkably brief period between sale and the point at which they show up as weapons used in criminal acts.

In another indication of the pressure created by the municipal lawsuits, Bob Delfay, president of the gun industry's largest trade association, says he plans to propose an unusual conference with senior law-enforcement officials, representatives of the National Rifle Association and executives of gun companies to discuss how the industry and government might curb trafficking by people who buy firearms on behalf of criminals and juveniles.

It is unclear precisely what measures Mr. Delfay, of the National Shooting Sports Foundation, has in mind to "stop these so-called straw purchases." But any proposals by the gun companies for greater government regulation or industry self-policing of sales and marketing practices would be a substantial departure from the manufacturers' insistence that they are already sufficiently regulated by thousands of laws.

Only last week, Mr. Delfay's group took over a more conciliatory gun industry organization, the American Shooting Sports Council, which had been trying to open negotiations with lawyers for some of the cities suing the firearms makers. In an interview, Mr. Delfay insisted that his idea for a conference was not intended to open the way for a settlement.

So far, 22 counties and cities, including Chicago, Los Angeles and Detroit, have sued the gun makers, accusing them of failing to include enough safety devices or negligently marketing their guns in ways that enable criminals and juveniles to buy them. The suits seek damages for extra police and hospital costs resulting from gun violence, but more important, city officials say, they want to force the gun companies to accept greater regulation of the way they design, manufacture and distribute their products.

More cities are expected to file suit soon, and lawyers familiar with the issue say New York is close to becoming the first state to bring such a suit. "If New York comes into this, and there are more suits, at some point soon a critical mass will be reached where the costs alone of defending these suits are going to eat up the gun companies," said John Coale, a lawyer in Washington who is representing New Orleans and several other cities that have sued.

Mr. Coale, one of the Castano Group of lawyers who were active in

suing the tobacco industry — the group is named for a friend of several of them who died of a tobacco-related disease — estimated that the cigarette companies had spent \$600 million a year defending themselves against the states. "The gun companies simply can't afford it," he said, since they are so much smaller and sales of guns have been flat or declining for a decade.

"So if you get too many cities and states suing," Mr. Coale said, "the manufacturers will go into bankruptcy protection. And the day that happens, the suits stop and it is lose-lose for everybody."

Davis Industries, of Chino, Calif., filed for bankruptcy reorganization in the Federal bankruptcy court in nearby Riverside on May 27, said Alan Stomel, a lawyer who represented creditors in the unrelated 1996 bankruptcy of Lorcin Engineering, another of the gun makers controlled by the same owners as Davis Industries and known as the Ring of Fire companies (because their locations form a ring around Los Angeles).

"Bankruptcy is a very useful negotiating tool," Mr. Stomel said, "and predictably the more suits that are filed, the more these gun companies

A maker of Saturday night specials seeks refuge in court.

are going to file for bankruptcy."

A spokesman for Davis Industries, who declined to give his name, confirmed that the company had filed for bankruptcy. "We do what we go to do" in response to the suits, the spokesman said. "I'm sure other companies will do the same thing."

Mr. Stomel said Davis Industries faced several problems: the municipal lawsuits, wrongful-death and personal-injury suits by individuals, a messy argument between the two owners, Jim and Gail Davis, who were recently divorced, and a bill that is expected to pass the California Legislature that would bar the manufacture of cheap handguns.

A lawyer for one of the cities suing the gun makers said bankruptcy "is going to be a huge pain" because it will require much more time and expense for the cities, limit the amount of damages they may collect and, perhaps most important, put the litigation in Federal bankruptcy court. Bankruptcy judges, the lawyer said, are more likely to act favorably to the gun companies than urban juries in state courts.

But Paul Januzzi, general counsel for Glock Inc., one of the largest handgun makers, said it was unlikely that the older, more established, mostly Eastern firearms companies would turn to bankruptcy.

"We are confident we can win the suits, if we have a number of companies litigating together," Mr. Januzzi said.

Lawsuits, he added, were nothing new to the industry. "It would be an unusual gun company that doesn't have a dozen lawsuits a year against it," he said. "This is America."

Alana Levin

Can't avoid damages for certain firsts (negligence) or said

where they have lost civil judgments

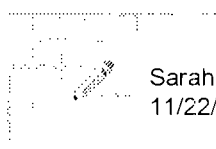
last case on this was a civil case where suit was filed against manufacturer + said collect use bankruptcy

Eden Lane in CA

11 USC sect
#523 — 11 categories:

"willful +
malicious
injury"

- Loop hole in Fed. bankruptcy system,
- File for bankruptcy + discharge debts,
→ An individual's nondischargeable categories for debt
are not same for corporations,
- There are no nondischargeable categories for corporate,
- fraud, recklessness, misrepresentation, nuisance
& product liability,



Sarah Rosen Wartell
11/22/99 07:40:02 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Deanne E. Benos/OPD/EOP@EOP
Subject: Levin Gun Amendment

Mike Greenberger -- Please call me if you have questions about below. Marti can get you up to speed.

Now that the bankruptcy bill is done for the year, we have a bit of time to sort through our bankruptcy/gun policy issues with Senator Levin's amendment. While it is all fresh in our minds, could DoJ assemble the relevant folks on both bankruptcy policy and gun policy and develop a preliminary recommendation that the folks here at the WH who worry about bankruptcy policy and gun issues can chew on? In developing the recommendation, please review the letter that DoJ sent to Senator Schumer on his amendment. We need to be able to reconcile (or differentiate) our views on the two amendments, since they appear to be similar at first blush. Perhaps they are. Is there a difference because one affects individual consumer bankruptcies and the other corporations? Is there a difference because there is a track record of using "judgement proof" parties to violate the FACE act without fear of repercussion? Is there a similar record regarding gun judgements? What is the impact of the precedent?

I suspect Senator Levin's staff will be urging us to get back to him, so perhaps Friday, Dec. 3rd would be a good target for DoJ recommendation. DPC -- Does that date work for you?

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Nicole R. Rabner/WHO/EOP@EOP
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Cynthia A. Rice

11/18/99 04:38:04 PM

Record Type: Record

To: Leanne A. Shimabukuro/OPD/EOP@EOP, Deanne E. Benos/OPD/EOP@EOP, Andy Rotherham/OPD/EOP@EOP, Nicole R. Rabner/WHO/EOP@EOP

cc:

Subject: Bankruptcy News from Congress Daily

----- Forwarded by Cynthia A. Rice/OPD/EOP on 11/18/99 04:37 PM -----



Sarah Rosen Wartell
11/18/99 04:23:43 PM

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cc:

Subject: Bankruptcy News from Congress Daily

----- Forwarded by Sarah Rosen Wartell/OPD/EOP on 11/18/99 04:23 PM -----



"Lachmann, David" <David.Lachmann@mail.house.gov>
11/18/99 04:07:02 PM

Record Type: Record

To: Sarah Rosen Wartell/OPD/EOP

cc:

Subject: Bankruptcy News from Congress Daily

HILL BRIEFS

At presstime, a spokesman for Senate Majority Leader Lott was unable to confirm that Lott had decided

to pull bankruptcy reform legislation from consideration - but that is Senate Minority Leader Daschle's

understanding. Daschle told reporters today that Lott "has no intention" of resuming the bankruptcy debate,

which means a series of stacked votes planned for today on bankruptcy

amendments would be put off

indefinitely. A spokesman for Senate Judiciary Administrative Oversight and the Courts Subcommittee

ranking member Robert Torricelli, D-N.J., a chief sponsor of the bill, said it was his office's understanding

as well that there would be no return to bankruptcy debate before this year's session ends. Daschle said he was

"surprised and disappointed" by Lott's decision, and insisted that two controversial Democratic amendments

dealing with guns and an abortion bill "are relevant to bankruptcy." Lott indicated this week he would invoke

cloture on the bankruptcy measure before allowing those two proposals to come up for votes.

David Lachmann

Minority Professional Staff

Committee on the Judiciary

B-336 Rayburn House Office Building

Washington, D.C. 20515

Phone: (202)225-2322

Fax: (202)225-1845

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Sarah Rosen Wartell
11/22/99 07:40:02 AM

Record Type: Record

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Nicole R. Rabner/WHO/EOP@EOP
Joel K. Wiginton/WHO/EOP@EOP

United States Senate

WASHINGTON, DC 20510

October 28, 1999

Dear Colleague:

There is a trend among some gun manufacturers, including the chief manufacturers of "Saturday Night Specials" or "junk guns," to file for bankruptcy protection and evade legitimate claims for damages caused by their deadly products.

Under the bankruptcy code, such companies have been able to "take advantage of the system." That's what Lorcin Engineering Co., a manufacturer of inexpensive semiautomatic pistols told *Firearms Business* it was doing when it filed for Chapter 11 bankruptcy protection in 1996. Lorcin filed for bankruptcy when it realized it could not defend its practices against the lawsuits filed against them.

When the Senate turns its attention to the Bankruptcy Reform Act of 1999, we intend to offer an amendment to address this abuse of the bankruptcy system. The amendment will prohibit gun manufacturers, distributors, and dealers, such as Lorcin, from discharging firearm related debts under Chapter 11 where they have lost civil judgments based on fraud, recklessness, misrepresentation, nuisance or negligence.

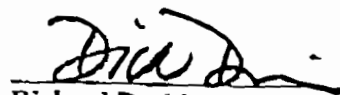
Our amendment will send a clear message to gun manufacturers, distributors, and dealers that they will not be able to hide behind bankruptcy laws and "take advantage of the system." Companies who make or sell such guns that cause death or injury because of their cheap construction and easy availability will not be able to evade accountability for their actions.

We hope we have your support for our amendment to end this abuse of the bankruptcy system. If you would like more information or wish to co-sponsor, please call Ilona Cohen in the office of Senator Levin at 224-9104.

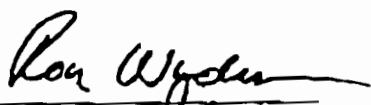
Sincerely,

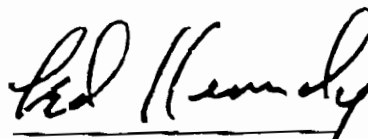


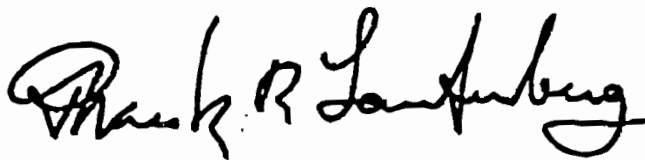
Carl Levin



Richard Durbin


Ron Wyden


Edward Kennedy


Frank Lautenberg


Dianne Feinstein

11/16/99 TUE 18:08 FAX

HANDGUN CONTROL

**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.**

November 9, 1999

The Honorable Carl Levin
United States Senate
459 Russell
Washington, DC 20510

Dear Senator Levin:

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I urge you to support this important amendment.

Sincerely,

Sarah Brady
Chair

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11/16/99 TUE 18:07 FAX



U.S. Department of Justice
Office of Legislative Affairs

001

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEET

DATE: 11/16

TO:

Deanne Benos

PHONE NO.

FAX NO.

456-7028

FROM:

JOE GRAUPENSPERGER

PHONE NO.

FAX NO.

514-3951

305-2643

NO. OF PAGES: 6 (EXCLUDING COVER)

COMMENTS:

Levin amendment & related materials.

Close the loophole allowing abuse of the bankruptcy system by some in the gun industry

Senator Carl Levin (D-MI)

This amendment would prevent firearm manufacturers, distributors and dealers from filing for Chapter 11 bankruptcy protection to evade wrongful death and personal injury lawsuits caused by their dangerous products. It would close the loophole in the system that allows firearm manufacturers, distributors, and dealers, to discharge firearm related debts incurred as a result of their fraud, recklessness, misrepresentation, nuisance, negligence, or product liability.

Background on Lawsuits Against the Gun Industry

Cities and their residents have filed dozens of lawsuits against firearm companies to recover the public costs associated with gun violence and to curb certain production, marketing and distribution practices. Many of the ongoing lawsuits are product liability suits and revolve around cheaply constructed or poorly designed weapons. Other suits deal with the distribution system of the gun industry and the access to deadly products given to unauthorized users.

Link to Bankruptcy

Gun manufacturers, distributors, and dealers should not be able to evade these legitimate claims for damages by filing for bankruptcy. In 1996, Lorcin Engineering Co., one of the chief manufacturers of "Saturday Night Specials" or "junk guns" filed for Chapter 11 bankruptcy to protect itself from multiple product liability lawsuits. Lorcin told *Firearms Business* – a gun industry publication – that it chose to "take advantage of the system" after it decided it could not defend its position in court.

At the time, Lorcin manufactured a cheap semiautomatic pistol, which in 1998 was number two on the list of guns traced to crime scenes by the Bureau of Alcohol, Tobacco and Firearms. Lorcin was able to evade accountability for their actions because they sought refuge in bankruptcy court. Other gun manufacturers, like Davis Industries and Sundance Industries, have followed Lorcin's lead and have filed for bankruptcy to avoid liability. We should not let other firearm companies "take advantage of the [bankruptcy] system."

Exceptions to the Bankruptcy Discharge

Currently, there are eighteen categories of debt that are nondischargeable under the Bankruptcy Code (11 U.S.C. § 523). The Code makes certain debts nondischargeable when there is an overriding public purpose. For instance, any debt awarded for death or personal injury resulting from drunk driving is not dischargeable in bankruptcy. This addition to the Bankruptcy Code showed Congress' unwillingness to allow persons driving drunk to escape responsibility incurred by illegal and improper conduct. Like debts incurred by drunk driving, Congress must send a clear message that it will not deny justice to an individual who wins a civil damage award against a firearm manufacturer, distributor or dealer. That individual will not have to fear that the offender will "take advantage of the system" and use bankruptcy law to evade accountability.

S.L.C.

2658

AMENDMENT NO. 2658 Calendar No. _____

Purpose: To provide for the nondischargeability of debts arising from firearm-related debts, and for other purposes.

IN THE SENATE OF THE UNITED STATES—106th Cong., 1st Sess.

S. 625

To amend title 11, United States Code, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEVIN (for himself, Mr. DURBIN, Mr. WYDEN, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. LAUTENBERG), MR. SCHUMER

Viz:

1 On page 124, between lines 14 and 15, insert the following:

2
3 SEC. ____ CHAPTER 11 NONDISCHARGEABILITY OF DEBTS
4 ARISING FROM FIREARM-RELATED DEBTS.

5 (a) IN GENERAL.—Section 1141(d) of title 11, United States Code, as amended by section 708 of this Act,
6 is amended by adding at the end the following:

7
8 “(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt that is—
9
10

1 : "(A) related to the use or transfer of a firearm
2 (as defined in section 921(3) of title 18 or section
3 5845(a) of the Internal Revenue Code of 1986); and

4 "(B) based in whole or in part on fraud, reck-
5 lessness, misrepresentation, nuisance, negligence, or
6 product liability."

7 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
8 United States Code, as amended by section 901(d) of this
9 Act, is amended—

10 (1) in paragraph (27), by striking "or" at the
11 end;

12 (2) in paragraph (28), by striking the period at
13 the end and inserting "; or"; and

14 (3) by inserting after paragraph (28) the fol-
15 lowing:

16 "(29) under subsection (a) of this section, of—

17 "(A) the commencement or continuation,
18 and conclusion to the entry of final judgment or
19 order, of a judicial, administrative, or other ac-
20 tion or proceeding for debts that are non-
21 dischargeable under section 1141(d)(6); or

22 "(B) the perfection or enforcement of a
23 judgment or order referred to in subparagraph
24 (A) against property of the estate or property
25 of the debtor."

*democrats
made huge
deal on
floor*

*about
individuals
not
corporations*

Dear Senator Schumer,

The Administration is deeply concerned by the incidents of violence, vandalism, and harassment committed against family planning clinics. Some of these acts have resulted in the deaths and maiming of innocent people. The Administration believes that these unlawful activities must not be tolerated, and that when they are committed, those found liable should be held accountable under the law.

The Administration has a strong record of supporting efforts to end clinic violence. The Freedom of Access to Clinic Entrances (FACE) Act of which you were the principal House sponsor, and which the President signed into law, provides federal protection against unlawful and violent actions while it protects the right to engage in peaceful picketing and protest unaccompanied by force or physical obstruction. Violators of FACE are subject to criminal penalties of imprisonment, a fine or both. In addition, the court may also assess civil penalties for a particularly egregious offense or against a repeat offender. State clinic access laws and state and federal anti-racketeering laws are additional tools used to prosecute clinic violence. Yet, if offenders are able to escape the damages assessed under these laws, then they will gradually lose their effectiveness.

Unfortunately, some defendants found liable for clinic violence are abusing the bankruptcy system in an effort to shield themselves from civil monetary penalties assessed under these laws. More specifically, these defendants are filing for Chapter 7 to discharge their obligations to the victims of their clinic violence and to escape responsibility for their actions. In order to stem the tide of clinic-related violence by ensuring that penalties for these acts are strictly enforced, we support your amendment that would make court-ordered fines and debts resulting from clinic violence nondischargeable.

The Administration's general position has been to oppose the expansion of nondischargeable debt unless there is an overriding public policy objective to be protected and no other way to achieve that objective. Consistent with this position, we view your amendment as a necessary tool in our current efforts to end clinic violence.

Certainly, one could argue that damages awarded for all intentional torts should be nondischargeable. Indeed, this is largely the case under the "willful and malicious injury" exception contained in Section 536(a)(6) of the Bankruptcy Code. Some damages resulting from clinic-related violence, however, are not protected under this exception. This was made clear in the Supreme Court's recent decision in *Geiger v. Kawaauhau*, 523 U.S. 57 (1998). In *Geiger* the Court held that the word "willful" "modifies the word 'injury' indicating that nondischargeability takes a deliberate or intentional injury, not merely a deliberate or intentional act that leads to injury . . ." Although some clinic-related violence is committed with the direct intention to inflict injury, some such violence indirectly results in injury. Take for example a family planning clinic which is bombed at night. The perpetrator may not know that some of the clinic's employees are working late and still in the building. The bomb, nonetheless, still injures these employees. Should damages awarded to victims such as these be any less protected simply

- 205

*fair level (Dolan)
HHS some injury
power on
bankruptcy
what little we
have left*

because the bomber did not *intentionally* intend to injure them with his or her bomb?

In addition, there is another compelling reason to create a specific nondischargeability carve-out for clinic-related violence damages. There are reports of those who have been found liable for such acts blatantly – even enthusiastically – announcing how they are going to escape responsibility for their actions by filing for Chapter 7. Indeed, such abuse of the bankruptcy system appears to be part of a concerted plan on the part of these individuals to perpetuate their acts of violence and intimidation.

Parties on both sides of the issue of abortion agree that violence against clinics should not be tolerated. This is why we have laws in place designed to deter such activity. We must not permit those who have committed odious acts of violence to escape responsibility for their actions. Your amendment goes a long way toward achieving this goal.

① — On floor.

— up in the air.

— House bill passed

— don't know if voted
on.

②

Guess —

→ Potential exits
to debate
Levin
Schumer

Finish everything

but all + just

+ file for closure

(No more votes tonight)

— May finish bill in 6 hours

— 2 holdups: — Levin
— Schumer

③

— Meehan — attempted
same amendments.
on ~~sanity~~ ^{sanity}

— before Columbus —

536(a)(b)

01/05/99

TITLE 11 - BANKRUPTCY

SUBCHAPTER II - DEBTOR'S DUTIES AND BENEFITS

Sec. 523. Exceptions to discharge

(a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge (an individual debtor) from any debt -

(A) of the kind and for the periods specified in section 507(a)(2) or 507(a)(8) of this title, whether or not a claim for such tax was filed or allowed;

(i) was not filed; or

(ii) was filed after the date on which such return was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax;

(2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by -

(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;

11/16/1999 9:12 PM

(ii) respecting the debtor's or an insider's financial condition;

(iv) that the debtor caused to be made or published with intent to deceive; or

(3) neither listed nor scheduled under section 521(1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit -

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of

(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance;

(11) provided in any final judgment, unreviewable order, or consent order or decree entered in any court of the United States or of any State, issued by a Federal depository institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union;

(13) for any payment of an order of restitution issued under title 18, United States Code;

11/16/1999 9:12 PM

(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915(b) or (f) of title

-MISC1-

LEGISLATIVE STATEMENTS

11/16/1999 9:12 PM

Section 523(a)(2)(B)(iv) is not intended to change from present law since the statement that the debtor causes to be made or published with the intent to deceive automatically includes a statement that the debtor actually makes or publishes with an intent to deceive. Section 523(a)(2)(B) is explained in the House report. Under section 523(a)(2)(B)(i) a discharge is barred only as to that portion of a loan with respect to which a false financial statement is materially false.

In many cases, a creditor is required by state law to refinance existing credit on which there has been no default. If the creditor does not forfeit remedies or otherwise rely to his detriment on a false financial statement with respect to existing credit, then an extension, renewal, or refinancing of such credit is nondischargeable only to the extent of the new money advanced; on the other hand, if an existing loan is in default or the creditor otherwise reasonably relies to his detriment on a false financial statement with regard to an existing loan, then the entire debt is nondischargeable under section 523(a)(2)(B). This codifies the reasoning expressed by the second circuit in *In re Danns*, 558 F.2d 114 (2d Cir. 1977).

Section 523(a)(3) of the House amendment is derived from the Senate amendment. The provision is intended to overrule *Birkett v. Columbia Bank*, 195 U.S. 345 (1904) (25 S.Ct. 38, 49 L.Ed. 231, 12 Am.Bankr.Rep. 691).

Section 523(a)(4) of the House amendment represents a compromise between the House bill and the Senate amendment.

Section 523(a)(5) is a compromise between the House bill and the Senate amendment. The provision excepts from discharge a debt owed to a spouse, former spouse or child of the debtor, in connection with a separation agreement, divorce decree, or property settlement agreement, for alimony to, maintenance for, or support of such spouse or child but not to the extent that the debt is assigned to another entity. If the debtor has assumed an obligation of the

Section 523(a)(6) adopts the position taken in the House bill and rejects the alternative suggested in the Senate amendment. The phrase "'willful and malicious injury'" covers a willful and malicious conversion.

Section 523(a)(8) represents a compromise between the House bill and the Senate amendment regarding educational loans. This provision is broader than current law which is limited to federally insured loans. Only educational loans owing to a governmental unit or a nonprofit institution of higher education are made nondischargeable under this paragraph.

Section 523(c) of the House amendment adopts the position taken in the Senate amendment.

11/16/1999 9:12 PM

The House amendment also adopts the Senate amendment provision

SENATE REPORT NO. 95-989

Subsection (a) lists nine kinds of debts excepted from discharge. Taxes that are excepted from discharge are set forth in paragraph (1). These include claims against the debtor which receive priority in the second, third and sixth categories (Sec. 507(a)(3)(B) and (c) and (6)). These categories include taxes for which the tax authority failed to file a claim against the estate

Paragraph (2) provides that as under Bankruptcy Act Sec. 17a(2) (section 35(a)(2) of former title 11), a debt for obtaining money, property, services, or a refinancing extension or renewal of credit by false pretenses, a false representation, or actual fraud, or by use of a statement in writing respecting the debtor's financial condition that is materially false, on which the creditor reasonably relied, and which the debtor made or published with intent to deceive, is excepted from discharge. This provision is modified only slightly from current section 17a(2). First, "actual fraud" is added as a ground for exception from discharge. Second, the creditor must not only have relied on a false statement in writing, but the reliance must have been reasonable. This codifies case law construing present section 17a(2). Third, the phrase "in any manner whatsoever" that appears in current law after "made or published" is deleted as unnecessary, the word "published" is used in the same sense that it is used in defamation cases.

Unscheduled debts are excepted from discharge under paragraph (3). The provision, derived from section 17a(3) (section 35(a)(3) of former title 11), follows current law, but clarifies some uncertainties generated by the case law construing 17a(3). The debt is excepted from discharge if it was not scheduled in time to permit timely action by the creditor to protect his rights, unless the creditor had notice or actual knowledge of the case.

Paragraph (4) excepts debts for fraud incurred by the debtor while acting in a fiduciary capacity or for defalcation, embezzlement, or misappropriation.

Paragraph (5) provides that debts for willful and malicious conversion or injury by the debtor to another entity or the property of another entity are nondischargeable. Under this paragraph "willful" means deliberate or intentional. To the extent that *Tinker v. Colwell*, 139 U.S. 473 (1902), held that a less strict standard is intended, and to the extent that other

cases have relied on Tinker to apply a ''reckless disregard'' standard, they are overruled.

Paragraph (6) excepts from discharge debts to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of the spouse or child. This language, in combination with the repeal of section 456(b) of the Social Security Act (42 U.S.C. 656(b)) by section 326 of the bill, will apply to make nondischargeable only alimony, maintenance, or support owed directly to a spouse or dependent. What constitutes alimony, maintenance, or support, will be determined under the bankruptcy law, not State law. Thus, cases such as *In re Waller*, 494 F.2d 447 (6th Cir. 1974), are overruled, and the result in cases such as *Fife v. Fife*, 1 Utah 2d 281, 265 P.2d 642 (1952) is followed. The proviso, however, makes nondischargeable any debts resulting from an agreement by the debtor to hold the debtor's spouse harmless on joint debts, to the extent that the agreement is in payment of alimony, maintenance, or support of the spouse, as determined under bankruptcy law considerations as to whether a particular agreement to pay money to a spouse is actually alimony or a property settlement.

Paragraph (7) makes nondischargeable certain liabilities for penalties including tax penalties if the underlying tax with respect to which the penalty was imposed is also nondischargeable (sec. 523(a)(7)). These latter liabilities cover those which, but are penal in nature, as distinct from so-called ''pecuniary loss'' penalties which, in the case of taxes, involve basically the collection of a tax under the label of a ''penalty.'' This provision differs from the bill as introduced, which did not link the nondischarge of a tax penalty with the treatment of the underlying tax. The amended provision reflects the existing position of the Internal Revenue Service as to tax penalties imposed by the Internal Revenue Code (Rev.Rul. 68-574, 1968-2 C.B. 595).

Paragraph (8) follows generally current law and excerpts from discharge student loans until such loans have been due and owing for five years. Such loans include direct student loans as well as insured and guaranteed loans. This provision is intended to be self-executing and the lender or institution is not required to file a complaint to determine the nondischargeability of any student loan.

Paragraph (9) excepts from discharge debts that the debtor owed before a previous bankruptcy case concerning the debtor in which the debtor was denied a discharge other than on the basis of the six-year bar.

Subsection (b) of this section permits discharge in a bankruptcy case of an unscheduled debt from a prior case. This provision is carried over from Bankruptcy Act Sec. 17b (section 35(b) of former title 11). The result dictated by the subsection would probably not be different if the subsection were not included. It is included nevertheless for clarity.

Subsection (c) requires a creditor who is owed a debt that may be excepted from discharge under paragraph (2), (4), or (5), (false statements, defalcation or larceny misappropriation, or willful and malicious injury) to initiate proceedings in the bankruptcy court for an exception to discharge. If the creditor does not act, the debt is discharged. This provision does not change current law.

Subsection (d) is new. It provides protection to a consumer debtor that dealt honestly with a creditor who sought to have a debt excepted from discharge on the ground of falsity in the incurring of the debt. The debtor may be awarded costs and a reasonable attorney's fee for the proceeding to determine the dischargeability of a debt under subsection (a)(2), if the court finds that the proceeding was frivolous or not brought by its creditor in good faith.

The purpose of the provision is to discourage creditors from

HOUSE REPORT NO. 95-595

As under Bankruptcy Act Sec. 17a(2) (section 35(a)(2) of former title 11), debt for obtaining money, property, services, or an extension or renewal of credit by false pretenses, a false representation, or actual fraud, or by use of a statement in writing respecting the debtor's financial condition that is materially false, on which the creditor reasonably relied, and that the debtor made or published with intent to deceive, is excepted from discharge. This provision is modified only slightly from current section 17a(2). First, "actual fraud" is added as a grounds for exception from discharge. Second, the creditor must not only have relied on a false statement in writing, the reliance must have been reasonable. This codifies case law construing this provision. Third, the phrase "in any manner whatsoever" that appears in current law after "made or published" is deleted as

Unscheduled debts are excepted from discharge under paragraph (3). The provision, derived from section 17a(3) (section 35(a)(3) of former title 11), follows current law, but clarifies some uncertainties generated by the case law construing 17a(3). The debt is excepted from discharge if it was not scheduled in time to permit timely action by the creditor to protect his rights, unless the creditor had notice or actual knowledge of the case.

Paragraph (5) excepts from discharge debts to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of, the spouse or child. This language, in combination with the repeal of section 456(b) of the Social Security Act (42 U.S.C. 656(b)) by section 327 of the bill, will apply to make nondischargeable only alimony, maintenance, or support owed directly to a spouse or dependent. See Hearings, pt. 2, at 942. What constitutes alimony, maintenance, or support, will be determined under the bankruptcy laws, not State law. Thus, cases such as *In re Waller*, 494 F.2d 447 (6th Cir. 1974); Hearings, pt. 3, at 1308-10, are overruled, and the result in cases such as *Fife v. Fife*, 1 Utah 2d 281, 265 P.2d 642 (1952) is followed. This provision will, however, make nondischargeable any debts resulting from an agreement by the debtor to hold the debtor's spouse harmless on joint debts, to the extent that the agreement is in

Paragraph (6) excepts debts for willful and malicious injury by the debtor to another person or to the property of another person. Under this paragraph, "willful" means deliberate or intentional. To the extent that *Tinker v. Colwell*, 193 U.S. 473 (1902) (24 S.Ct. 505, 48 L.Ed. 754, 11 Am.Bankr.Rep. 568), held that a looser standard is intended, and to the extent that other cases have relied on *Tinker* to apply a "reckless disregard" standard, they are overruled.

Paragraph (8) (enacted as (9)) excepts from discharge debts that the debtor owed before a previous bankruptcy case concerning the debtor in which the debtor was denied a discharge other than on the basis of the six-year bar.

11/16/1999 9:12 PM

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The Consumer Credit Protection Act, referred to in subsec. (a)(2)(C), is Pub. L. 90-321, May 29, 1968, 82 Stat. 146, as amended, which is classified principally to chapter 41 (Sec. 1601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Bankruptcy Act, referred to in subsecs. (a)(10) and (b), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11. Sections 14c and 17a of the Bankruptcy Act were classified to sections 32(c) and 35(a) of former Title 11.

The Social Security Act, referred to in subsec. (a)(18)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part D of title IV of the Act is classified generally to part D (Sec. 651 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Section 408(a)(3) of the Act is classified to section 608(a)(3) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 439A of the Higher Education Act of 1965, referred to in subsec. (b), was classified to section 1087-3 of Title 20, Education, and was repealed by Pub. L. 95-598, title III, Sec. 317, Nov. 6, 1978, 92 Stat. 2678.

11/16/1999 9:12 PM

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that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or''.

Subsec. (a)(11), (12). Pub. L. 101-647, Sec. 2522(a)(1), added pars. (11) and (12).

Subsec. (c). Pub. L. 101-647, Sec. 2522(a)(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 101-647, Sec. 2522(a)(2), added subsec. (e).

1986 - Subsec. (a). Pub. L. 99-554, Sec. 257(n), inserted reference to sections 1228(a) and 1228(b) of this title.

Subsec. (a)(1)(A). Pub. L. 99-554, Sec. 283(j)(1)(A), substituted ''507(a)(7)'' for ''507(a)(6)''.

Subsec. (a)(5). Pub. L. 99-554, Sec. 281, struck out the comma after ''decree'' and inserted '', determination made in accordance with State or territorial law by a governmental unit,'' after ''record''.

Subsec. (a)(9), (10). Pub. L. 99-554, Sec. 283(j)(1)(B), redesignated par. (9) relating to debts incurred by persons driving while intoxicated, added by Pub. L. 98-353, as (10).

Subsec. (b). Pub. L. 99-554, Sec. 283(j)(2), substituted ''Service'' for ''Services''.

1984 - Subsec. (a)(2). Pub. L. 98-353, Sec. 454(a)(1), in provisions preceding subpar. (A), struck out ''obtaining'' after ''for'', and substituted ''refinancing of credit, to the extent obtained'' for ''refinance of credit,''.

Subsec. (a)(2)(A). Pub. L. 98-353, Sec. 307(a)(1), struck out ''or'' at end.

Subsec. (a)(2)(B). Pub. L. 98-353, Sec. 307(a)(2), inserted ''or'' at end.

Subsec. (a)(2)(C). Pub. L. 98-353, Sec. 307(a)(3), added subpar. (C).

Subsec. (a)(5)(A). Pub. L. 98-353, Sec. 454(b)(2), inserted '
or any such debt which has been assigned to the Federal Government
or to a State or any political subdivision of such State''.

Subsec. (a)(9). Pub. L. 98-353, Sec. 371(2), added the par. (9) relating to debts incurred by persons driving while intoxicated.

Subsec. (c). Pub. L. 98-353, Sec. 454(c), inserted "'of a kind'" after "'debt'".

Subsec. (d). Pub. L. 98-353, Sec. 307(b), substituted "'the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust'" for "'the court shall grant judgment against such creditor and in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding to determine dischargeability, unless such granting of judgment would be clearly inequitable'".

1981 - Subsec. (a)(5)(A). Pub. L. 97-35 substituted "'law, or otherwise (other than debts assigned pursuant to section 402(a)(26) of the Social Security Act);'" for "'law, or otherwise;'".

1979 - Subsec. (a)(8). Pub. L. 96-56 substituted "for an educational loan made, insured, or guaranteed by a governmental

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IX, Sec. 971(b), Oct. 7, 1998, 112 Stat. 1837, provided that: "The amendment made by subsection (a) (amending this section) shall apply only with respect to cases commenced under title 11, United States Code, after the date of enactment of this Act (Oct. 7, 1998)."

Section 374(c) of Pub. L. 104-193 provided that: "The amendments made by this section (amending this section and section 656 of Title 42, The Public Health and Welfare) shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act (Aug. 22, 1996)."

EFFECTIVE DATE OF 1994 AMENDMENT

EFFECTIVE DATE OF 1990 AMENDMENTS

11/16/1999 9:12 PM

''(b) Application of Amendments. - The amendments made by this title (amending this section and section 1328 of this title) shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.''

Section 4 of Pub. L. 101-581 provided that:

''(b) Application of Amendments. - The amendments made by this Act (amending this section and section 1328 of this title) shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.''

Amendment by section 257 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

11/16/1999 9:12 PM

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 2334(c) of Pub. L. 97-35, set out as a note under section 656 of Title 42, The Public Health and Welfare.

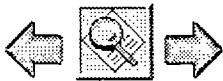
ADJUSTMENT OF DOLLAR AMOUNTS

For adjustment of dollar amounts specified in subsec. (a)(2)(C) of this section by the Judicial Conference of the United States, effective Apr. 1, 1998, see note set out under section 104 of this title.

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 104, 106, 502, 507, 522, 524, 727, 1141, 1228, 1328 of this title; title 20 section 1087; title 26 sections 6327, 7437.



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