

LD 1696 An Act to Create a Civil Cause of Action for Persons Suffering Damages Arising from the Sale of Abnormally Dangerous Firearms

Memorandum of Opposition

Date: May 17, 2023

To: Honorable Members of the Judiciary Committee.

From: Jonathan Martell

RE: LD 1696 An Act to Create a Civil Cause of Action for Persons Suffering Damages Arising from the Sale of Abnormally Dangerous Firearms

Members of the committee, I would like to express my Opposition of LD 1696 An Act to Create a Civil Cause of Action for Persons Suffering Damages Arising from the Sale of Abnormally Dangerous Firearms

My Name is Jonathan Martell. I am a Sanford City Councilor, Head of The Southern Maine Chapter for Gun Owners of Maine, Legislative Officer for Sanford Springvale Fish and Game Club and NRA Member.

This bill appears to be overly broad so as to trap almost anyone selling anything remotely firearm related into being liable for misuse of a firearm.

I'll start with the definitions:

"Firearm related product" is extremely broad to include anything from a receiver to a screw or screwdriver.

1. **"Reasonable Controls"**: This is defined as: *To prevent the sale or distribution of a firearm related product to a straw purchaser.*

A straw purchase is one in which one Person "A" buys a firearm for Person "B", at Person "B's" request. They're illegal, because criminals and other people who cannot pass a background check often get other people, who can pass a background check, to buy guns for them. Straw purchaser is defined in part E, but is not used correctly throughout this bill.

While this may sound reasonable, background checks only applies to firearm sales. Background checks can NOT be performed for anything other than a firearm.

It goes on to state: *A firearm trafficker, a person prohibited from possessing a firearm under state or federal law or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm the person or another person or of possessing or using a firearm-related product unlawfully.*

There is no reasonable way a gun store or any other person to determine, without prior knowledge, if an individual was prohibited or at risk. This does not pass any measurable standard of being reasonable. Firearm accessories are just that, accessories. They are not harmful by themselves. Notice no examples are being presented here. Replace the phrase "Firearm Related Product" with screw or rubber cap. How is that dangerous or harmful?

The other two items are equally ill defined. No one wants their products stolen, but not everything can be kept in a vault where customers are unable to view merchandise.

Promotion of unlawful manufacturing, sale, etc is not generally an issue, but could be considered a freedom of speech violation.

2. **Requirements for firearm industry members**: Again, these so called reasonable controls are not reasonable, nor are they enforceable.

3. **Prohibited Conduct**: Unreasonably dangerous is not well defined as what is an unreasonable risk of harm to public health and safety in the state.

1. Assaultive Purposes is simply a made up term to sound scary. Assault is an action, not an adjective. Again, this is extremely vague to be left open to any interpretation.
2. It is already illegal to convert a firearm into a machine gun or other NFA item without proper approvals.

3. Minors and prohibited persons are not able to buy firearms, so why would this even make sense to market to that demographic. Again, over broad for no reason.

4. **Violation and Enforcement:** This allows for frivolous lawsuits for the unreasonable and unenforceable requirements in sections 2 and 3.

5. **Unfair Trade Practices:** This points to Title 5 Chapter 10. No subsection is defined. Evidence of what violation?

6. **Prohibited Defenses:** Reasonable defenses are precluded from this proposed law with no recourse for frivolous lawsuits.

7 **Attorney Fees:** Even if a case is won, no attorney fees can be awarded. This is purely intended to put any firearms related manufacturer out of business

Again this bill is nothing more that creating a trap to put firearms related business and even unrelated businesses in harms way. This attempt at legalizing harassment, and stripping business of their legal rights to force them out of Maine or out of business should not stand. Please vote ought not to pass for LD 1696

Sincerely,

Jonathan Martell
Sanford, ME
Sanford City Councilor
Head of The Southern Maine Chapter for Gun Owners of Maine
Legislative Officer for Sanford Springvale Fish and Game Club
National Rifle Association Member