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LD 1696

Please oppose LD1696 ““An Act to Establish Civil Liability for the Illegal Sale or Marketing of Firearm-Related Products”

In general, there is already a cause of action in this state for any harm done to any Maine entity by the criminal or negligent behavior of any other entity. The great majority of the language of this law simply outlines behavior that is already completely covered under Maine and Federal law.

Wherever this proposed legislation expands the existing causes of action, however, it is unconstitutional, morally insupportable, and ill-drafted.

First, the law drops the requirements for service for such a cause of action to an affidavit of mailing. We have rules for service in legal actions in this state, that were developed over centuries to ensure justice. By eliminating those simple requirements while placing a short time to answer upon those targeted under this proposed legislation, the authors of this legislation make clear their intent not to advance the cause of justice, but to hinder the ability of firearm-related entities to protect themselves. This entire piece of legislation should be examined in light of that conclusion.

Second, the proposed legislation purports to empower the Attorney General to begin legal proceedings against any entity based simply on the basis of “appearance” that some illegal firearms-related activity may occur in the future. This is a shocking expansion of the powers of the Attorney General’s office. It creates a uniquely disadvantaged class of entity and encourages persecution of that class. As such it is a violation of the Equal Protection Clause of the U.S. Constitution. Combined with the aforementioned egregious gutting of provisions of service, this provision is simply injustice writ large.

Third, the proposed legislation creates a cause of action for the advertising of firearms-related products to minors, an activity that is completely normal, legal, appropriate, and non-tortious.

Fourth, the law also seeks to burden any firearm-related business with vague, unreasonable, and often impossible requirements, in effect shifting responsibility for control of firearms offenses to any and all entities even vaguely related to the firearms industry and away from the government. Given the continual multi-level failure of the government to effectively utilize the staggering number of laws already in place to combat firearm crimes, the inherent injustice of this provision is also immediately evident.

Fifth, given that the ATF has been retroactively declaring to be illegal firearm related products such as pistol braces that have been legal, and widely sold, for years, and has criminally prosecuted individuals for possessing or selling those products, the provision prohibiting the selling or offering for a sale a product that “promotes conversion or modification of a legal firearm-related product into an illegal firearm-related product” is a clear invitation to an ex-post-facto prosecution of law abiding citizens.

Furthermore, as the minimum monetary penalty, if levied, is a staggering \$25,000 per instance, and given the unconstitutionally vague provisions of the bill as noted below, again, it is clear that this provision is not intended to promote the safety of our citizens, but to make it easy to persecute anybody even vaguely related to the firearms industry, or, for that matter even private citizens.

This bill is unworthy of further consideration.