

To: Maine State Legislature, Judiciary Committee

RE: HP 1085/LD 1696; Sponsor's Amendment to LD1696

Having been notified of the existence of the above proposed laws and amendments, I proceeded to download them and print for easy study, and have come to the following conclusions:

1. The above documents seek to define a private citizen seeking to sell a personal firearm or accessory as a "firearms industry member". (Section 1, 14 MRSA c. 763, section 9001.1A). 'Person' in the section defining "firearm industry member" is singular, and 'firearm' in the following section defining "firearm-related product" is also singular, as is "part". Therefore, an individual trying to sell his personal gun is included in the proposed statute.
2. The thus-designated private citizen is thereby required to adhere to section 9001.1D, which requires that he as a "Firearms Industry Member" must comply with all provisions of State and Federal Law governing the sale of his firearm. This means to me that the private citizen must go thru a Federal Firearms Licensed agent to complete his sale, thus in effect registering his firearm with the government.
3. The private citizen is then required to take 'reasonable' precautions to ensure that the sale of his property is not to a prohibited person. These precautions are not spelled out, leaving the potential seller with no resource to attempt compliance.
4. Section 1, 14 MRSA c. 763, section 9001.3A (3) prohibits sale of firearms-related products targeted at minors; this means that a person who crafts custom gunstocks sized to fit juvenile shooters may be in jeopardy of the regulation, since all parts of a firearm are designated 'related products', and a right-sized gunstock would be specifically created to appeal to juveniles.
5. The Sponsor's Amendment document (Section 1, 14 MRSA c. 763, section 9003.3) proscribes a "firearm industry member", thus a private citizen, from offering for sale a "firearms-related product", thus any gun part, including ammunition or components, from doing so in a manner that is "unconscionable, unscrupulous, oppressive, or deceptive". These conditions are utterly amorphous and subjective, and lend themselves to abuse by personal injury attorneys, which I suspect is why they were used.
6. The amendment further provides for civil action against "firearms industry members" for injuries from firearms related products that are "abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in the State". Again, the standards are totally subjective and lend themselves to abuse.

I also downloaded and printed out the text of 15USC Ch.105: Protection of Lawful Commerce in Arms, from Title 15- Commerce and Trade. In that document I find that the Federal Statute prohibits cases of action against anyone engaged in the business of firearms and ammunition manufacture unless the claimed injury is due to a defect or malfunction in the product. Since the Maine proposed statute seeks to define a private seller belonging to that category, it automatically runs afoul of the PLCAA.

Furthermore, a firearm cannot be designated as 'uniquely dangerous', or posing 'an unreasonable risk of harm' if it has been authorized for sale by the Federal Government.

Lest I be accused of providing only complaints, and no solutions, here is a suggestion that was made by a member of the Maine law enforcement community the last time the 'Red Flag' law was proposed. He proposed that Maine should place an endorsement on the State Driver's License or ID stating that the

holder was not prohibited from purchasing a firearm. A seller would thus have access to a verifiable means of identification, and assurance that he or she was exercising due diligence in the sale.

Lastly, I must mention the logic behind our desire to remain an armed people. It is based on the founding documents declaration of natural rights, particularly those of Life and Liberty. Central to that logic is a Supreme Court case that everyone should know, South v Maryland-1855. This case was decided by the Roger Taney court, the same one that would issue the infamous Dred Scott decision two years later. To make a long explanation short, the opinion stated that the government at all levels cannot be held responsible for injury to an individual; its duty was to the public as a whole. One commentator made what I believe is the correct summation of the decision by stating that 'there exists no civil remedy for injury due to failure to protect on the part of government'. The ruling has governed civil law ever since. One particularly egregious case was decided in New York City within the last few years:

Three women shared a two-level apartment; while two of the occupants were upstairs, thugs broke into the lower level and proceeded to sexually abuse the third. The upstairs occupants called 911 and reported the attack. After a time, the noises below subsided, and the two went down to check on their companion, assuming the authorities had arrived, only to discover the attackers still there, and they were in their turn assaulted-**for the next 14 hours.**

The women sued the NYPD for gross dereliction, and the trial judge threw the case out, based on South v Maryland. By claiming incompetence, the police were absolved of all responsibility for the women's injuries. So who is responsible for our personal safety? To get the answer, find a mirror.

This bill and amendment is a transparent attempt by the Democratic Party to extend their Lawfare tactics to Maine gun owners and firearms-related small businesses. It is too cute by half, and invites 'we the people' to fight fire with fire, to wit:

The 100s of thousands of gun owners and enthusiasts in this state should pool their resources and engage legal council to counter-sue any of their members who are served under this proposed statute, and do their very best to make those actions very expensive to the initiating parties. The above gun owners and enthusiasts should further press for legislation that provides for the awarding of damages and attorney's fees and or court costs against the parties to the above actions. This has already happened in Colorado, where the Brady Gun Control organization egged on a couple who had lost a child in a tragic mass shooting, only to abandon that couple when they lost in court and were faced with hundreds of thousands of dollars in expenses, forcing them to declare bankruptcy.

We are not your problem; we only ask to be left alone. If you wish to be a victim, that's your business; leave us out of it.

Sincerely,

Bruce Abbott

Franklin