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LD 1174

Chairpersons, members of the committee,

Thank you for the opportunity to provide testimony on Legislative Document 1104. My name is Dana Hunnewell, and I am writing in support of this bill, which thoughtfully aims to provide a liability shield for individuals who voluntarily hold firearms on behalf of others under a good-faith agreement. I believe this is a proactive and community-oriented approach to supporting responsible gun ownership, suicide prevention, and temporary crisis intervention.

That said, while I support the intent of LD 1104, I have several reservations regarding the bill's current language that I respectfully urge the committee to address through clarification or amendment:

1. Lack of a Statutory Time Frame

The bill refers to an "agreed-upon period of time" but provides no statutory guidance regarding what constitutes a reasonable or permissible duration for a hold.

Question:

Is the time frame entirely left to the discretion of the parties involved, or will there be regulatory or statutory limits to prevent abuse or confusion?

2. Early Return of Firearms

The bill is silent on what happens if the firearm owner wishes to retrieve their firearm prior to the "agreed-upon date."

Questions:

Can the holder return the firearm before that date?

Could returning the firearm early jeopardize the holder's liability protection under this statute?

Clarification is needed to ensure that the law does not unintentionally restrict the rights of the firearm owner or disincentivize the holder from cooperating in good faith.

3. Lawful Possession of the Firearm

The bill assumes the firearm is "lawfully possessed" but does not define what constitutes lawful possession or how a holder is expected to verify it.

Concern:

There is no mechanism in place for a person holding the firearm to determine if the firearm is lawfully possessed, placing them at potential legal risk despite the intended immunity.

A clear standard or presumption of good faith on the part of the holder may be necessary to provide true protection.

4. Ownership Ambiguity

The bill refers to returning the firearm to the "owner"—yet there is no definitive means to establish firearm ownership outside of official documentation such as Form 4473 or other federal records, which private parties do not have access to.

Request for Clarification:

Can a firearm be "returned" if ownership cannot be legally or definitively proven?

This uncertainty could create liability even under this immunity statute.

5. Federal Record keeping Conflicts (27 CFR § 478.125)

For federally licensed firearm dealers (FFLs), the bill may conflict with existing federal law requiring strict inventory and record keeping procedures.

Under 27 CFR § 478.125(e), all firearms received must be recorded in a bound book, even if not for sale. If the firearm is taken in under a voluntary hold agreement and stored on premises, federal law may require it to be recorded as part of the dealer's inventory.

Concern:

If the bill's intent is that such firearms are not treated as inventory or "for sale" items, the language should reflect that to avoid conflict with federal regulations and the risk of ATF compliance violations.

Suggested Clarifying Language

To address the above, I respectfully suggest the committee consider:

Defining or establishing a default maximum duration for a firearm hold (e.g., 180 days, renewable).

Adding a clause permitting early return of the firearm upon request of the owner without negating immunity.

Including a presumption of good faith for the holder regarding the owner's lawful possession of the firearm.

Clarifying that the bill is not intended to conflict with federal law, and providing specific language for FFLs that distinguishes held firearms from inventory required for business reporting.

In conclusion, I appreciate the efforts of the bill's sponsors and the committee for taking up this important issue. LD 1104 is a well-intentioned and valuable piece of legislation. With a few refinements, it can provide clearer legal protections and improve safe firearm storage practices across Maine.

Thank you for your time and consideration.