



Maine Trial Lawyers Association

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Senator Carney, Representative Moonen, and Honorable Members of the Joint Standing Committee on Judiciary,

I write today to comment on LD 2119 on behalf of the Maine Trail Lawyers' Association ("MTLA"). The MTLA commends the intent behind LD 2119 and takes no position on much of its proposed language. However, the MTLA has significant concerns about the proposed limitation of liability included in the recent sponsor's amendment.

As drafted, proposed 25 M.R.S. § 2016 would limit the liability of an individual or entity who returns a firearm to its owner after a temporary firearm hold in all circumstances. This language is troublingly broad.

First, it bears emphasis that Maine law already limits liability through the requirement that a person or entity must generally have been negligent to be liable in a civil suit. Without the statutory limit on liability proposed in LD 2119, individuals or entities could only be held liable for the return of a firearm after a temporary firearm hold if they acted negligently in doing so.

One can easily imagine a circumstance where an individual initiates a temporary firearm hold for mental health reasons, and is still in obvious distress when the hold expires. The return of a firearm to a person in those circumstances should be subject to scrutiny. As drafted, the proposed § 2016 would seem to limit the liability of an individual who returns a firearm to its owner even if the owner explicitly states an intention to harm themselves or others. There is no good reason that a person who returns a firearm to an owner who has stated an intent to cause harm should be immune from civil liability for doing so. The MTLA accordingly encourages this committee to eliminate or amend the proposed § 2016. An amendment clarifying that a person returning a firearm may still be liable if they knew or should have known of a firearm owner's intent to harm themselves or others would remedy much of the problem with LD 2119 as drafted.

Sincerely,

Christopher C. Boots, Esq.
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