

LD 1761, "An Act to Prohibit Indemnification Agreements"

Senator Bailey, Representative Mathieson, and distinguished members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services,

My name is Joe Edwards and I am an attorney living in Readfield.

LD 1761 seeks to outlaw the transfer of the responsibility for negligence of one company to another company by making covenants that do that unenforceable. Since it doesn't take effect until January 1, 2026, there would be no need to re-negotiate existing contracts nor would it ban indemnification for a company's own negligence.

Forty-five states ban these covenants for construction and another forty-one (including Maine) ban them in transportation, but they are widely used in other areas as the written testimony from Lucas Tree demonstrates. Lucas Tree manages vegetation around power lines—a major reason there have been fewer power outages in central and southern Maine in recent years, but is required to assume the power company's liability for the power company's negligence if it wants work.

My first encounter with this issue is instructive.

1. Transferring negligence in this way is irresponsible and unethical.
2. It divorces responsibility from the organization best able to manage the cost and risk.
3. It complicates the insurance underwriting and coverage.
4. It puts working people at risk.
5. It allows companies to hurt people and then send someone else the bill.

For those reasons, as well as fairness and good business practice, I urge you to support LD 1761.