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**SPONSOR’S AMENDMENT**

An Act to Establish Civil Liability for the Illegal  
Sale or Marketing of Firearm-Related Products

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Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 14 M.R.S.A. §1522(1)(W)** is enacted to read:

W. Title 14, section 9002, subsection 2.

**Sec. 2. 14 M.R.S.A. c. 763** is enacted to read:

**CHAPTER 763**

**CIVIL LIABILITY FOR THE ILLEGAL SALE OR MARKETING  
OF FIREARM-RELATED PRODUCTS**

**9001. Definitions.** In this chapter:

- 1.** The term “firearm” has the meaning provided by 17-A M.R.S.A. § 2(12-A).
- 2.** The term “firearm industry member” means a person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the sale, manufacturing, distribution, importing or marketing of a firearm-related product or any officer, agent, employee or other person authorized to act on behalf of the person, firm, corporation, company, partnership, society, joint stock company or other entity or association or who acts in concert or participation with one or more such persons, firms, corporations, companies, partnerships, societies, joint stock companies or other entities or associations.
- 3.** The term “firearm-related product” means any firearm, ammunition, ammunition magazine, firearm component or part, including a firearm frame, firearm receiver or firearm accessory, that is or is intended to be sold, manufactured, distributed, imported or marketed.
- 4.** The term “firearm trafficker” means a person who acquires, transfers, or attempts to acquire or transfer a firearm for purposes of unlawful commerce.
- 5.** The term “person” means any natural person or legal entity, including a corporation, partnership, limited liability company, or incorporated or unincorporated association.

6. The term “straw purchaser” means a person who conceals or intends to conceal that the purchase of a firearm-related product is being made on behalf of a third party. A person is not a “straw purchaser” if the person intends the purchase of the firearm-related product as a bona fide gift to a person who is not prohibited by law from possessing or receiving a firearm-related product; provided however that a gift is not bona fide if the intended recipient has offered or given the purchaser a service or anything of value in consideration of the acquisition of the firearm-related product.

## **9002. Civil action authorized.**

**1. Private cause of action.** Notwithstanding any action by the Attorney General under subsection 2 hereof, any person who has suffered damages in this State that are proximately caused, in whole or in part, by a knowing violation of this chapter by a firearm industry member may bring an action for the recovery of those damages plus injunctive relief, reasonable attorneys’ fees and costs.

## **2. Attorney General investigation and enforcement.**

**A.** Whenever it appears to the Attorney General that a firearm industry member has engaged in, is engaging in, or is about to engage in conduct that violates section 9003 or 9004 of this chapter and that an investigation thereof would be in the public interest, the Attorney General may by written request examine any documents and records relevant to such a violation, and require the firearm industry member or any person with knowledge in the premises to provide testimony under oath in written responses to interrogatories and upon oral deposition. Service of a written request under this paragraph shall be accomplished by first class mail and the fact and date of service is conclusively established by a USPS certificate of mailing. A person receiving a written request from the Attorney General pursuant to this paragraph shall comply therewith or shall otherwise file in the Kennebec County Superior Court within 20 days of service of the request a motion to quash or modify the request, which motion shall not be granted unless the movant demonstrates that the request or specific portions thereof is made without good cause. The Attorney General may file a petition for an order enforcing a request, a violation of which shall be a civil violation for which a civil penalty of not less than \$10,00 and not more than \$50,000 shall be awarded.

**B.** Whenever it appears to the Attorney General that a firearm industry member has engaged in, is engaging in, or is about to engage in conduct that violates section 9003 or 9004 and that action would be in the public interest, the Attorney General may commence a civil action to seek and obtain:

**i.** Injunctive relief;

**ii.** A civil penalty of not less than \$25,000 and nor more than \$100,000 for each knowing violation of this chapter; and

iii. Equitable monetary relief, including restitution and disgorgement, for the financial loss suffered by any person that is proximately caused, in whole or in part by the knowing violation of this chapter by a firearm industry member.

C. In any action by the Attorney General under this subsection, the Court shall not enter a judgment for the duplicative recovery of monetary relief that has in fact been awarded to a prevailing party under subsection 1.

**3. Venue.** An action brought pursuant to this section shall be filed in the Superior Court in the county in which the firearm industry member resides or has its principal place of business, or if the firearm industry members have no residence or principal place of business in this state, in Kennebec County.

**4. Knowing violation.** A person's conduct in violation of this chapter is knowing when the person is subjectively aware or reasonable should be aware that the conduct is unlawful.

**5. Proximate cause.** For the purpose of this chapter, a particular harm or loss is proximately caused by a violation of this chapter if the violation played a substantial part in bringing about the harm or loss and the harm or loss was either a direct result or a reasonably foreseeable consequence of the violation. In determining whether a particular harm or loss is proximately caused by a violation of this chapter, the criminal or tortious act or conduct of a third party with respect to the use of a firearm-related product shall not be considered an intervening or superseding cause.

**6. Exemptions.** No action may be brought under this section by a person injured:

A. By that person's use of a firearm-related product in the commission of a crime or tort;

B. By that person's use of a firearm-related product to intentionally or recklessly inflict or cause a self-injury.

### **9003. Prohibited conduct.**

**1.** A firearm industry member shall not sell or offer or market for sale a firearm-related product in a manner that promotes conversion or modification of a legal firearm-related product into an illegal firearm-related product.

**2.** A firearm industry member shall not sell or offer or market for sale a firearm-related product in a manner that is targeted to minors or other individuals who are prohibited from owning or possessing firearms.

**3.** A firearm industry member shall not sell or offer or market for sale a firearm-related product in any manner that is unconscionable, unscrupulous, oppressive or deceptive.

### **9004. Reasonable controls required.**

**1. Prevention of sales to certain persons.** A firearm industry member shall establish, implement and enforce reasonable procedures, acts or practices to prevent the sale or offering or marketing for sale of a firearm-related product to a straw purchaser, firearm trafficker, a person prohibited from possessing a firearm under state or federal law or a person who the firearm industry member knows or has reasonable cause to believe is at substantial risk of using a firearm-related product to harm the person or another person or of possessing or using a firearm-related product unlawfully.

**2. Theft and loss prevention.** A firearm industry member shall establish, implement and enforce reasonable procedures, acts or practices to prevent the loss of theft of a firearm related product from the firearm industry member.

**3. Compliance with state and federal laws.** A firearm industry member shall establish, implement and enforce reasonable procedures, acts or practices to ensure that the firearm industry member complies with all provisions of state and federal laws, including section 9003 of this chapter.