

MAINE STATE LEGISLATURE

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M
R.O.S.

L.D. 1938

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DATE: 4-5-06

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION**

16
HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 739,
L.D. 1938, Bill, "An Act To Protect Victims of Domestic Violence"

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Amend the amendment by inserting before section 1 the
following:

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'Sec. 1. 14 MRSA §8104-A, sub-§5 is enacted to read:

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5. Firearm seized pursuant to protection from abuse
proceeding. A law enforcement agency seizing, confiscating or
receiving a firearm pursuant to Title 19-A, section 4006,
subsection 2-A or section 4007, subsection 1, paragraph A-1 is
liable for any loss, damage or reduction in value of that firearm
due to the lack of reasonable care by that law enforcement
agency. For the purposes of this subsection, "firearm" has the
same meaning as in Title 17-A, section 2, subsection 12-A and
includes a scope, sight, bipod, sling, light, magazine, clip,
ammunition or other firearm accessory attached to or seized,
confiscated or relinquished with a firearm.

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Sec. 2. 19-A MRSA §4005, sub-§6 is enacted to read:

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6. Bad faith remedy. If the court finds that a plaintiff
has commenced in bad faith a proceeding alleging abuse, the
court, notwithstanding any law to the contrary, shall direct the
individual to pay the defendant actual damages and reasonable
attorney's fees. A failure to prove by a preponderance of the
evidence an allegation of abuse does not, in itself, constitute
bad faith for purposes of this subsection.'

BOB

2 Further amend the amendment by inserting after section 2 the
following:

4 'Sec. 3. 19-A MRSA §4012, sub-§11 is enacted to read:

6 11. Receipt of firearms; procedure; liability. A law
8 enforcement agency seizing, confiscating or receiving a firearm
10 pursuant to section 4006, subsection 2-A or 4007, subsection 1,
12 paragraph A-1 shall provide the owner of that firearm with a
14 signed and dated receipt. The receipt must include the serial
number of the firearm, the condition of the firearm and any other
firearm accessories seized, confiscated or received with the
firearm.

16 The law enforcement agency may not engrave or permanently mark in
18 any manner the firearm. Unless reasonable suspicion exists to
believe that a particular firearm has been used in the commission
of a crime, the firearm may not be test fired.

20 A law enforcement agency seizing, confiscating or receiving a
22 firearm pursuant to section 4006, subsection 2-A or section 4007,
24 subsection 1, paragraph A-1 is liable for damage to the firearm
26 that results in a reduction in value of the firearm, including,
without limitation, engraving, permanently marking or test firing
the firearm.'

28 Further amend the amendment by relettering or renumbering
30 any nonconsecutive Part letter or section number to read
consecutively.

32 **SUMMARY**

34 This amendment does the following:

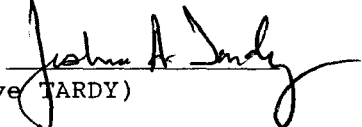
36 1. It amends the provision of law granting immunity from
38 civil suit to governmental entities to hold a law enforcement
40 agency liable for damage or loss of firearms seized, confiscated
42 or received by that law enforcement agency pursuant to an order
of the court in a protection from abuse proceeding;

44 2. It requires a court to order a person seeking a
protection from abuse order in bad faith to pay damages and
reasonable attorney's fees to the defendant;

46 3. It requires a law enforcement agency seizing,
48 confiscating or receiving a firearm pursuant to an order of a
court in a protection from abuse proceeding to provide the owner

of the firearm with a signed and dated receipt, which must
include the serial number and condition of the firearm and any
firearm accessories obtained with the firearm; and

4. It prohibits a law enforcement agency seizing,
confiscating or receiving a firearm pursuant to an order of a
court in a protection from abuse proceeding from engraving,
permanently marking or, unless reasonable suspicion exists to
believe the firearm was used in the commission of a crime, test
firing the firearm. A law enforcement agency that violates this
prohibition is liable for any reduction in value of the firearm.

SPONSORED BY: 
(Representative TARDY)

TOWN: Newport