

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1696

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H.P. 1085

House of Representatives, April 18, 2023

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**An Act to Create a Civil Cause of Action for Persons Suffering  
Damages Arising from the Sale of Abnormally Dangerous Firearms**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative MILLETT of Cape Elizabeth.  
Cosponsored by Senator CARNEY of Cumberland and  
Representatives: DOUDERA of Camden, GATTINE of Westbrook, GRAMLICH of Old  
Orchard Beach, MOONEN of Portland, SACHS of Freeport, SAYRE of Kennebunk, STOVER  
of Boothbay, Senator: LAWRENCE of York.

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

2 **Sec. 1. 14 MRSA c. 763** is enacted to read:

3 **CHAPTER 763**

4 **FIREARM INDUSTRY**

5 **§9001. Firearm industry member liability**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Firearm industry member" means a person, firm, corporation, company,  
9 partnership, society, joint stock company or any other entity or association engaged in  
10 the sale, manufacturing, distribution, importing or marketing of a firearm-related  
11 product and any officer, agent, employee or other person authorized to act on behalf of  
12 the person, firm, corporation, company, partnership, society, joint stock company or  
13 other entity or association or who acts in concert or participation with one or more such  
14 persons, firms, corporations, companies, partnerships, societies, joint stock companies  
15 or other entities or associations.

16 B. "Firearm-related product" means any firearm, ammunition, ammunition magazine,  
17 firearm component or part, including a firearm frame, firearm receiver or firearm  
18 accessory, that is or is intended to be sold, manufactured, distributed, imported or  
19 marketed in the State or that is possessed in the State and is reasonably foreseeable to  
20 be possessed or used in the State.

21 C. "Firearm trafficker" means a person who acquires, transfers or attempts to acquire  
22 or transfer a firearm for purposes of unlawful commerce.

23 D. "Reasonable controls" means reasonable procedures, acts or practices that are  
24 designed, implemented and enforced to:

25 (1) Prevent the sale or distribution of a firearm-related product to a straw purchaser,  
26 a firearm trafficker, a person prohibited from possessing a firearm under state or  
27 federal law or a person who the firearm industry member has reasonable cause to  
28 believe is at substantial risk of using a firearm-related product to harm the person  
29 or another person or of possessing or using a firearm-related product unlawfully;

30 (2) Prevent the loss or theft of a firearm-related product from the firearm industry  
31 member; or

32 (3) Ensure that the firearm industry member complies with all provisions of state  
33 and federal law and does not otherwise promote the unlawful manufacture, sale,  
34 possession, marketing or use of a firearm-related product.

35 E. "Straw purchaser" means a person who conceals or intends to conceal from a person  
36 that the purchase of a firearm-related product is being made on behalf of a 3rd party.  
37 "Straw purchaser" does not include a bona fide gift to a person who is not prohibited  
38 by law from possessing or receiving a firearm-related product. A gift to a person is not  
39 a bona fide gift if the person has offered or given the purchaser a service or thing of  
40 value to acquire the firearm-related product for the person.

1            **2. Requirements for firearm industry members.** A firearm industry member shall:

2            A. Establish, implement and enforce reasonable controls; and

3            B. Take reasonable precautions to ensure that the firearm industry member does not  
4            knowingly sell, distribute or provide a firearm-related product to a downstream  
5            distributor or retailer of firearm-related products that fails to establish, implement or  
6            enforce reasonable controls.

7            **3. Prohibited conduct.** A firearm industry member may not knowingly manufacture,  
8            market, import, offer for wholesale sale or offer for retail sale a firearm-related product that  
9            is abnormally dangerous and likely to create an unreasonable risk of harm under this  
10           subsection to public health and safety in the State. For the purposes of this subsection:

11           A. There is a rebuttable presumption that a firearm-related product is abnormally  
12           dangerous and likely to create an unreasonable risk of harm to public health and safety  
13           if:

14                  (1) The firearm-related product's features render the product most suitable for  
15                  assaultive purposes instead of lawful self-defense, hunting or other legitimate sport  
16                  and recreational activities;

17                  (2) The firearm-related product is designed, sold or marketed in a manner that  
18                  foreseeably promotes conversion of legal firearm-related products into illegal  
19                  firearm-related products; or

20                  (3) The firearm-related product is designed, sold or marketed in a manner that is  
21                  targeted at minors or other individuals who are legally prohibited from accessing  
22                  firearms; and

23           B. A firearm-related product may not be considered abnormally dangerous and likely  
24           to create an unreasonable risk of harm to public health and safety based on a firearm's  
25           inherent capacity to cause injury or lethal harm.

26           **4. Violation and enforcement.** A person who has suffered harm in the State  
27           proximately caused by a firearm industry member's intentional or knowing violation of the  
28           requirements in subsection 2 or 3 may bring an action for the recovery of damages or  
29           injunctive relief in the courts of the State or federal district court.

30           **5. Unfair trade practice.** A violation of subsection 2 or 3 is prima facie evidence of  
31           a violation of Title 5, chapter 10.

32           **6. Prohibited defenses.** Notwithstanding any provision of law to the contrary, the  
33           following are not defenses to an action brought under this chapter:

34                  A. Nonmutual issue preclusion or nonmutual claim preclusion;

35                  B. A defendant's ignorance or mistake of law; or

36                  C. A defendant's belief that the requirements of this chapter are unconstitutional or  
37                  were unconstitutional.

38           **7. Attorney's fees and costs.** Notwithstanding any provision of law to the contrary,  
39           including Title 5, section 213, subsection 2, a court may not award attorney's fees or costs  
40           to a defendant in an action brought under this chapter.

41           **8. Exemptions.** Under this chapter:

