

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 415

H.P. 282

House of Representatives, February 12, 2015

An Act To Promote the Safe Use and Sale of Firearms

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DION of Portland.
Cosponsored by Senator GERZOFSKY of Cumberland and
Representatives: COOPER of Yarmouth, FOWLE of Vassalboro, HUBBELL of Bar Harbor,
LAJOIE of Lewiston, PIERCE of Falmouth, Senator: BREEN of Cumberland.

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

2 **Sec. 1. 15 MRSA §394** is enacted to read:

3 **§394. Sale or transfer of firearms to prohibited persons; strict liability**

4 **1. Unlawful sale or transfer; strict liability.** A person may not sell or transfer a
5 firearm to a prohibited person as described in section 393.

6 **2. Penalty.** The following penalties apply to violations of this section.

7 **A.** A person who violates subsection 1 commits a civil violation for which a fine of
8 \$500 must be adjudged.

9 **B.** A person who violates subsection 1 after having been adjudicated as having
10 committed a civil violation under subsection 1 commits a Class E crime, which is a
11 strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

12 **3. Affirmative defense.** It is an affirmative defense to prosecution under this section
13 that the seller or transferor of the firearm requested that a federally licensed firearm
14 dealer complete a computerized background check under the Federal Bureau of
15 Investigation, National Instant Criminal Background Check System, or successor
16 background check system approved by the Attorney General of the United States, on the
17 purchaser or transferee prior to the sale or transfer of the firearm and the background
18 check indicated that the person was not a prohibited person.

19 **§395. Sale or transfer of firearms to prohibited persons; culpable mental state**

20 **1. Unlawful sale or transfer; culpable mental state.** A person is guilty of selling
21 or transferring a firearm to a prohibited person if that person intentionally or knowingly
22 sells or transfers a firearm to a person that the seller or transferor knows or believes is
23 prohibited from possessing a firearm under section 393.

24 **2. Penalty.** A violation of this section is a Class D crime.

25 **Sec. 2. 15 MRSA §455, sub-§2,** as enacted by PL 2003, c. 452, Pt. H, §1 and
26 affected by Pt. X, §2, is amended to read:

27 **2. False or fictitious name.** A person may not give a false or fictitious name to a
28 dealer. A person who violates this subsection commits a civil violation for which a fine
29 of ~~\$50~~ \$1,000 must be adjudged.

30 **SUMMARY**

31 This bill creates the civil violation of the sale or transfer of a firearm to a prohibited
32 person and strict liability Class E crime for a 2nd or subsequent offense of selling or
33 transferring a firearm to a prohibited person. The bill also creates an affirmative defense
34 to prosecution under this new civil violation and crime that the seller or transferor of the
35 firearm requested a federally licensed firearm dealer to conduct a computerized
36 background check under the Federal Bureau of Investigation, National Instant Criminal

1 Background Check System on the purchaser or transferee prior to the sale or transfer of
2 the firearm and the background check indicated that the purchaser or transferee was not a
3 prohibited person.

4 It creates the Class D crime of the sale or transfer of a firearm to a prohibited person.
5 A person is guilty of this crime if that person intentionally or knowingly sells or transfers
6 a firearm to another person that the seller or transferor knows or believes is prohibited
7 from possessing a firearm.

8 It increases the fine from \$50 to \$1,000 for the civil violation of giving a false or
9 fictitious name to a firearms dealer and makes the fine mandatory.