

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 379

H.P. 288

House of Representatives, January 24, 2019

An Act To Protect Children by Requiring the Safe Storage of Loaded Firearms

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

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

ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator CYRWAY of Kennebec and
Senator: MOORE of Washington.

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

2 **Sec. 1. 17-A MRSA §1059** is enacted to read:

3 **§1059. Unlawful storage of a loaded firearm**

4 **1. A person is guilty of unlawful storage of a loaded firearm if:**

5 A. The person stores or leaves on premises under the person's control the loaded
6 firearm;

7 B. The person knows or reasonably should know that a child is likely to gain access
8 to the loaded firearm without the permission of the child's parent or guardian; and

9 C. A child in fact gains access to the loaded firearm and:

10 (1) Uses the loaded firearm in a reckless or threatening manner;

11 (2) Uses the loaded firearm during the commission of a crime; or

12 (3) Recklessly or negligently discharges the loaded firearm.

13 **2. It is an affirmative defense to prosecution under subsection 1 that:**

14 A. A child who in fact gains access to the loaded firearm has completed a course in
15 firearm safety offered by or under the supervision of a federal, state, county or
16 municipal law enforcement agency or by a firearms instructor certified by a private
17 firearms association and recognized as knowledgeable in matters of firearm safety by
18 the state in which the course was taken;

19 B. The loaded firearm is stored in a locked box, locked gun safe or other secure,
20 locked space; is stored or left in a location that a reasonable person would believe to
21 be secure; or is secured with a trigger lock or similar device that prevents the firearm
22 from discharging;

23 C. The loaded firearm is carried on the person or within such close proximity to the
24 person that the person can readily retrieve and use the firearm as if the firearm were
25 carried on the person;

26 D. A child who in fact gains access to the loaded firearm gains access in order to
27 defend the child or a 3rd person under the circumstances enumerated in section 108;

28 E. The person has no reasonable expectation, based on objective facts and
29 circumstances, that a child is likely to be present on the premises where the person
30 stores or leaves the loaded firearm;

31 F. A child in fact gains access to the loaded firearm as the result of a criminal
32 trespass by any person of the premises where the firearm is stored or left; or

33 G. A child in fact gains access to the loaded firearm as the result of a theft of the
34 firearm by any person from the premises where the firearm is stored or left.

35 **3. The parent or guardian of a child who is injured by or dies from a discharge of a**
36 **firearm may not be prosecuted under this section unless the parent or guardian acted**

1 intentionally, knowingly, recklessly or with criminal negligence in failing to secure the
2 loaded firearm that was discharged.

3 4. For the purposes of this section, "child" means a person under 16 years of age.

4 5. Unlawful storage of a loaded firearm is a Class E crime.

5 **Sec. 2. 25 MRSA §2012, sub-§2**, as enacted by PL 1991, c. 127, is amended to
6 read:

7 **2. Requirements.** A firearm dealer must:

8 A. Include a basic firearm safety brochure with every firearm sold at retail in this
9 State, except that the brochure need not be supplied by the firearm dealer if the
10 firearm manufacturer provides a basic firearm safety brochure with the firearm. The
11 dealer may collect a charge for the brochure, which may not be greater than the
12 dealer's cost to obtain the brochure;

13 B. Offer to demonstrate to the purchaser the use of a trigger locking device; ~~and~~

14 C. Post in a conspicuous place information relating to the availability of known local
15 voluntary firearm safety programs; and

16 D. Post in a conspicuous place at each purchase counter the following warning in
17 bold type, not less than one inch in height: "IT IS IMPORTANT THAT THE
18 OWNER OF A FIREARM SEEK FIREARM SAFETY INSTRUCTIONS FROM A
19 CERTIFIED FIREARMS INSTRUCTOR AND KEEP FIREARMS SECURED
20 FROM UNAUTHORIZED USE."

21 A firearm dealer who fails to comply with this paragraph commits a civil violation
22 for which a fine of not more than \$1,000 may be adjudged.

23 SUMMARY

24 This bill creates the Class E crime of unlawful storage of a firearm, which a person is
25 guilty of if the person stores or leaves on premises under the person's control a loaded
26 firearm; the person knows or reasonably should know that a child is likely to gain access
27 to the loaded firearm without the permission of the child's parent or guardian; and a child
28 in fact gains access to the loaded firearm and uses the loaded firearm in a reckless or
29 threatening manner, uses the loaded firearm during the commission of a crime or
30 recklessly or negligently discharges the loaded firearm.

31 The bill also requires a firearm dealer to post a warning at each purchase counter
32 regarding the need to secure firearms from unauthorized use.