

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 747

H.P. 552

House of Representatives, February 11, 2019

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 CARDONE of Bangor.
Cosponsored by Senator GRATWICK of Penobscot and
Representative: COLLINGS of Portland, Senators: SANBORN, H. of Cumberland,
SANBORN, L. of Cumberland.

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

2 **Sec. 1. 15 MRSA §§394 and 395** are 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 firearms
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 amended by PL 2017, c. 81, §1, is further
26 amended to read:

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

30 **Sec. 3. Study group to review and make recommendations regarding the**
31 **"blue paper" process related to persons who are temporarily prohibited**
32 **from possessing firearms.** The Chief of the State Police shall convene a study group
33 to review and make recommendations regarding the so-called blue paper process for
34 persons admitted to a psychiatric hospital on an emergency basis pursuant to the Maine
35 Revised Statutes, Title 34-B, section 3863 who are temporarily prohibited from
36 possessing firearms. The Chief of the State Police shall invite representatives from the
37 following to participate in this review: the Office of the Attorney General, the

1 Department of Health and Human Services, the Maine Prosecutors Association,
2 Disability Rights Maine and any other interested parties that the Chief of the State Police
3 determines appropriate. The Chief of the State Police shall report the recommendations
4 of the study group to the Joint Standing Committee on Criminal Justice and Public Safety
5 by January 30, 2020. Following receipt of the report, the Joint Standing Committee on
6 Criminal Justice and Public Safety may report out a bill to the Second Regular Session of
7 the 129th Legislature.

8 **Sec. 4. Maine Revised Statutes headnote amended; revision clause.** In the
9 Maine Revised Statutes, Title 15, chapter 15, in the chapter headnote, the words
10 "possession of firearms by prohibited persons" are amended to read "possession of
11 firearms by prohibited persons and unlawful sale or transfer of firearms to prohibited
12 persons" and the Revisor of Statutes shall implement this revision when updating,
13 publishing or republishing the statutes.

14 SUMMARY

15 This bill does the following.

16 1. It creates the civil violation of the sale or transfer of a firearm to a prohibited
17 person and provides that a 2nd or subsequent offense is a strict liability Class E crime.
18 The bill also creates an affirmative defense to prosecution under this new civil violation
19 and crime that the seller or transferor of the firearm requested a federally licensed
20 firearms dealer to conduct a computerized background check under the Federal Bureau of
21 Investigation, National Instant Criminal Background Check System on the purchaser or
22 transferee prior to the sale or transfer of the firearm and the background check indicated
23 that the purchaser or transferee was not a prohibited person.

24 2. It creates the Class D crime of the sale or transfer of a firearm to a prohibited
25 person. A person is guilty of this crime if that person intentionally or knowingly sells or
26 transfers a firearm to another person that the seller or transferor knows or believes is
27 prohibited from possessing a firearm.

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

30 4. It requires the Chief of the State Police to convene a study group to review and
31 make recommendations regarding the so-called blue paper process as it relates to persons
32 admitted to a psychiatric hospital on an emergency basis who are temporarily prohibited
33 from possessing firearms. Representatives from the following are invited to participate in
34 this review: the Office of the Attorney General, the Department of Health and Human
35 Services, the Maine Prosecutors Association, Disability Rights Maine and any other
36 interested parties that the Chief of the State Police determines appropriate. The Chief of
37 the State Police is required to report the recommendations of the study group to the Joint
38 Standing Committee on Criminal Justice and Public Safety by January 30, 2020.
39 Following receipt of the report, the Joint Standing Committee on Criminal Justice and
40 Public Safety may report out a bill to the Second Regular Session of the 129th
41 Legislature.