

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 991

S. P. 298

In Senate, February 25, 1969

Referred to Committee on Judiciary. Sent down for concurrence and 1,000 ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Logan of York.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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AN ACT to Prohibit Possession of Machine Guns.

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

Sec. 1. R. S., T. 17, c. 82, additional. Title 17 of the Revised Statutes is amended by adding a new chapter 82, to read as follows :

CHAPTER 82

MACHINE GUNS

§ 2321. Crime

It shall be unlawful for any person to possess a machine gun within the geographical boundaries of the State of Maine.

§ 2322. Definition

Machine gun shall be a weapon of any description, by whatever name known, which is capable of discharging a number of projectiles in rapid succession by one manual or mechanical action on the trigger or firing mechanisms.

§ 2323. Right to possess, carry or transport

Any law enforcement officer of the State of Maine, any law enforcement officer of another state or a territory of the United States, members of the Armed Forces, Maine National Guard and Maine State Guard may possess a machine gun if the possession or carrying of such weapon is in the discharge of his official duties and has been authorized by his appointing authority.

Machine guns in the possession of a lawful manufacturer or possessed under a valid license issued by the Alcohol Tax Division of the United State Treasury Department shall be exempt from this chapter.

§ 2324. Confiscation and seizure.

Any machine gun as defined in section 2322, possessed in violation of this chapter, is declared to be contraband and is subject to forfeiture to the State. Any law enforcement officer shall have the power to seize the same with or without process. In case a machine gun is seized without a warrant, it shall be kept in some safe place for a reasonable time until a warrant can be procured.

When a machine gun is seized as provided, the officer seizing the same shall immediately file with the judge before whom such warrant is returnable, a libel against the machine gun, setting forth the seizure and describing the machine gun and the place of seizure in a sufficient manner to reasonably identify it, that it was possessed in violation of law and pray for a decree of forfeiture thereof. Such judge shall fix a time for the hearing of such libel and shall issue his monition and notice of same to all persons interested, citing them to appear at the time and place appointed to show cause why such machine gun should not be declared forfeited, by causing true and attested copies of said libel and monition to be posted in 2 public and conspicuous places in the town and place where such machine gun was seized, 10 days at least before said libel is returnable. In addition, a true and attested copy of the libel and monition shall be served upon the person from whom said machine gun was seized and upon the owner thereof, if their whereabouts can be readily ascertained, 10 days at least before said libel is returnable. In lieu of forfeiture proceedings, title to such seized machine gun may be transferred in writing to the State of Maine by the owner thereof. If title to and ownership in the machine gun is transferred to the State, a receipt for the machine gun shall be given to the former owner by the law enforcement officer who seized the machine gun.

§ 2325. Forfeiture proceedings

If no claimant appears, such judge shall, on proof of notice, declare the same to be forfeited to the State. If any person appears and claims such machine gun, as having a right to the possession thereof at the time when the same was seized, he shall file with the judge a claim in writing stating specifically the right so claimed, the foundation thereof, the item so claimed, any exemption claimed, the time and place of the seizure and the name of the law enforcement officer who seized the machine gun, and in it declare that it was not possessed in violation of this chapter, and state his business and place of residence and sign and make oath to the same before said judge. If any person so makes claim, he shall be admitted as a party to the process, and the judge shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the judge is, upon hearing, satisfied that said machine gun was not possessed in violation of this chapter, and that the claimant is entitled to the custody thereof, he shall give an order in writing, directed to the law en-

forcement officer having seized the same, commanding him to deliver to the claimant the machine gun to which he is so found to be entitled, within 48 hours after demand. If the judge finds the claimant not entitled to possess the machine gun, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such judge, and issue execution thereon, and shall declare such machine gun forfeited to the State. The claimants may appeal and shall recognize with sureties as on appeals in civil actions from a judge. The judge may order that the machine gun remain in the custody of the seizing law enforcement officer, pending the disposition of the appeal. All machine guns declared forfeited to the State, or title to which have been transferred to the State in lieu of forfeiture proceedings shall be turned over to the Chief of the Maine State Police. If said machine gun is found to be of a historic, artistic, scientific or educational value, the State Police may retain the machine gun for an indefinite period of time. Any other machine gun declared forfeited and in possession of the State Police shall be destroyed by a means most convenient to the Chief of the State Police.

§ 2326. Penalty

Whoever violates this chapter shall be punished by imprisonment for not more than 5 years or by a fine of not more than \$1,000, or by both.

Sec. 2. Grace period. A grace period to terminate 6 months after the effective date of this Act is created for the purpose of allowing persons who possess machine guns in violation of this chapter to deliver them to the Chief of the State Police for disposal under this Act. Those persons complying with this section will be exempt from prosecution under the Revised Statutes, Title 17, section 2326.