

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1107

H. P. 865

House of Representatives, February 27, 1969

On motion of Mrs. Coffey of Topsham, referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Coffey of Topsham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Firearms Control.

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

Sec. 1. R. S., T. 25, c. 253, sub-c. II, additional. Chapter 253 of Title 25 of the Revised Statutes is amended by adding a new subchapter II, to read as follows:

SUBCHAPTER II

FIREARMS CONTROL

§ 205I. Definitions

1. **Carry.** "Carry" means having on one's person or in a motor vehicle or other conveyance.

2. **Commissioner.** "Commissioner" means Commissioner of Inland Fisheries and Game.

3. **Department.** "Department" means Department of Inland Fisheries and Game.

4. **Firearm.** "Firearm" means a pistol or revolver with an overall length of less than 26 inches, or a rifle with one or more barrels more than 16 inches in length or a shotgun with one or more barrels more than 18 inches in length.

5. **Transfer.** "Transfer" means sale, gift, purchase or any other means by which ownership or temporary rights of use and control are conveyed or shifted from one person to another.

§ 2052. Subchapter not applicable

This subchapter shall not apply to:

1. Law enforcement officers. Law enforcement officers while engaged on official duty except to the extent that particular provisions of this subchapter are expressly made applicable to them.

2. Armed Forces. Persons in the Armed Forces of the United States or the National Guard, whenever such persons are engaged on official duty except to the extent that particular provisions of this subchapter are expressly made applicable to them.

3. Antiques. Antique firearms which are incapable of being fired or discharged or which do not fire fixed ammunition, or those manufactured before 1898 for which cartridge ammunition is not commercially available, and are possessed as curios or ornaments or for their historical significance or value.

4. Firearms unserviceable. Firearms which are in unserviceable condition and which are kept as curios, ornaments or for their historical significance or value.

5. Weapons not firearms. Weapons or other dangerous devices which are not firearms and which are kept as ornaments, curios or objects of historical or archeological interest, provided that the article or articles referred to are kept or displayed only in private homes, museums or in connection with public exhibitions.

§ 2053. Firearm identification card

Any person may submit to the commissioner an application for a firearm identification card. Such person shall be entitled to a firearm identification card, unless the person:

1. Felony. Has been convicted within the last 5 years of a felony in any state or federal jurisdiction, or within that period has been released from a state prison or penitentiary.

2. Drug laws. Has been convicted within the last 5 years of a violation of any federal or state narcotic or harmful drug law, whether or not a felony, or within that period has been released from a state prison or penitentiary.

3. Addiction. Has been or is under treatment or confinement for drug addiction, except that if such person is deemed to be cured of such condition by a competent medical authority, familiar with the applicant's history of illness, he shall be entitled to a firearm identification card upon the presentation of an affidavit issued by the medical authority to that effect. If a person convicted of any federal or state narcotic or harmful drug law is also undergoing treatment or confinement for drug addiction, this provision with respect to treatment or confinement for drug addiction shall control the granting of an identification card.

4. Hospitalized. Has been confined to any hospital or institution for mental illness or habitual drunkenness, except that if such person shall sub-

mit with the application an affidavit of a registered physician that he is familiar with the applicant's history of illness and that in his opinion the applicant is not disabled by such illness in a manner which should prevent his possessing a firearm, he shall be entitled to a firearm identification card.

5. Age. Is subject to the age disqualifications set forth in 18 U. S. C. 922 (b) (1).

The commissioner may not prescribe any other conditions for the issuance of a card, and shall within 30 days from the date of application either approve the application and issue the card, or deny the application and notify the applicant of the reason for such denial in writing.

A card may be revoked by the commissioner or suspended for such period as he may set, only upon the occurrence of any event which would have disqualified the holder from being issued the card. Any suspension or revocation of a card shall be in writing and shall state the reason therefor. Upon revocation or suspension, the commissioner shall take possession of said card.

Any applicant or holder aggrieved by a denial, revocation or suspension of a card may within 90 days after receipt of notice appeal to the District Court for a review of such action.

The firearm identification card shall be in a form prescribed by the commissioner and shall contain an identification number, the name and address of the holder, his height, weight and hair and eye color, and his signature, and shall be captioned "firearm identification card". The application for a card shall be made on a form prescribed by the commissioner which shall require the applicant affirmatively to state that he is not disqualified for any of the foregoing reasons from possession of a card.

Said card shall be valid for 5 years and shall be subject to automatic renewal upon sworn application, and without investigation, unless the commissioner has reason to believe that the status of the applicant has changed since the previous application.

§ 2054. Purchase, possession and use of firearms

No person shall purchase, possess or use a firearm unless he is the holder of an identification card issued pursuant to this subchapter evidencing the eligibility of such person to purchase, possess and use a firearm.

§ 2055. Firearms on effective date of Act

1. Application. Any person having in his possession a firearm on the effective date of this Act shall, within 6 months of such effective date, apply for a firearm identification card.

2. Transferor. If, prior to the expiration of the 6-month period provided in subsection 1, the firearm is transferred, the transferor shall comply with this subchapter covering the transfer of firearms and need not comply with subsection 1.

§ 2056. New residents

Any person newly a resident of this State who was in legal possession of a firearm or ammunition therefor pursuant to the laws of the jurisdiction of which he was formerly a resident shall have a period of 60 days after becoming a resident of this State in which to apply for an identification card, and during that period may continue to use the firearm and, for that purpose, the firearm is legally in his possession until an identification card is issued or denied to him. Thereafter, his purchase, possession and use of firearms or ammunition shall be in accordance with the requirements of this subchapter and any regulations pursuant thereto.

§ 2057. Law enforcement officers

1. Officers. Possession, use and carriage of firearms by law enforcement officers derives from the laws governing the powers, functions and organization of the police and other organized forces of peace officers. Eligibility of law enforcement officers to possess, use and carry firearms is not subject to the holding of identification cards or any other qualifications prescribed in this subchapter or in regulations pursuant thereto.

2. Transfer. Transfer of any firearm from or to a law enforcement officer or agency shall, except as provided in subsection 1, be subject to this subchapter and regulations made pursuant thereto.

3. Not on official duty. Whenever a law enforcement officer is not engaged on official duty, this subchapter shall be applicable to him in the same manner and to the same extent as to any other person.

§ 2058. Transfers of firearms

No dealer, manufacturer or wholesaler shall transfer firearms, except pursuant to a license therefor as provided in this subchapter.

§ 2059. Issuance and renewal of dealer's license

1. Dealer's license. Any person, firm, corporation, association or other entity proposing to engage in the business of selling firearms at retail shall apply for a dealer's license. The application shall be on a form approved by the commissioner and shall contain the following information:

A. The name and address of the applicant, including the address of each separate location within this State at which the applicant proposes to do business pursuant to the license; and

B. If the applicant is a partnership or association, the names and addresses of the partners or associates; or

C. If the applicant is a corporation, the names and addresses of the officers and directors;

D. Such other information bearing on the applicant's ability to operate the business in a manner consonant with the public safety as the commissioner may require.

2. Issuance. Upon receipt of a proper application and payment of the prescribed fee, the commissioner shall within 30 days issue a dealer's license

to an applicant, unless the applicant is subject to any of the disqualifying conditions set forth in section 2053, in which case the application for a dealer's license shall be denied.

3. Expiration date. A license issued pursuant to this section shall be valid for 3 years from the date of its issuance, unless sooner cancelled, suspended or revoked. A license shall bear the expiration date thereof on its face.

4. Renewal. A license issued pursuant to this section may be renewed upon application by the holder made on a form approved by the commissioner. Eligibility for renewal shall be on the same terms and conditions as for an original license, except that renewal also may be denied on account of violation of this subchapter or regulations of the department made pursuant thereto, or for any conduct in the operation of the applicant's business which gives the commissioner reasonable grounds to believe that the applicant will no longer operate in a manner consonant with the public safety.

§ 2060. Conduct of dealer's business

1. Duties. The holder of a dealer's license shall:

A. Display his license in a conspicuous place at all times at the establishment described in the license. If the dealer has more than one place of business at which he sells firearms and ammunition or either of them, he shall display in the same manner a certified copy of his license at each such additional place of business;

B. Keep the records required by the subchapter;

C. Keep all firearms and ammunition in a securely locked place at all times except when they are actually being shown to a customer or prospective customer or when actually being repaired or otherwise worked on;

D. Permit only persons who are holders of identification cards making them eligible to purchase, possess and use firearms to have access to guns or ammunition.

2. Limitation. Nothing in this section shall be construed to require a customer or prospective customer to show an identification card prior to his engaging in a transaction for which an identification card is required pursuant to this subchapter.

§ 2061. Records

Every licensed dealer shall maintain records containing an inventory of firearms and ammunition, or either of them, received, together with the name and address of the person from whom received, and the manufacturer, type and serial number of each gun, the name and address of the person to whom transferred, the identification card number of such person, the manufacturer, type and serial number of the gun transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the department and by state and local law enforcement officers. Such records shall be retained at least 5 years.

§ 2062. Repair

No person, other than a dealer or manufacturer licensed pursuant to this subchapter, shall repair firearms or accept the same for repair.

No person shall accept any firearms for repair, unless he is shown an identification card evidencing eligibility of the holder to possess and use a firearm. Prior to returning any such firearm the manufacturer or dealer shall make a record identical with that required for the purchase of a firearm pursuant to section 2061, and shall maintain such record for at least one year.

Nothing in this section shall be construed to prohibit the repair or maintenance of a gun by the owner thereof.

§ 2063. Ammunition

No person may sell ammunition, unless he is a manufacturer, wholesaler or dealer, licensed pursuant to this subchapter. If the sale is other than to another manufacturer, wholesaler or dealer, the sale shall not be made until the seller has ascertained that the purchaser is the holder of an identification card evidencing eligibility to possess and use a firearm. Upon sale, the seller shall record the quantity, type and caliber or gauge sold or transferred, the name and address of the purchaser and the number of the purchaser's identification card. A nonresident may purchase ammunition for a firearm upon presentation of his nonresident hunting license and in such cases, the seller may substitute full information identifying the nonresident hunting license for information concerning the identification card. No person who has purchased ammunition shall sell it to any person other than a dealer licensed pursuant to this subchapter. Upon receipt of ammunition, the dealer shall make and keep all records with respect to the ammunition in the manner required by this section for ammunition sold by him.

§ 2064. Private sale or transfer

No person other than a manufacturer, wholesaler or dealer licensed pursuant to this subchapter shall transfer a firearm to any person other than a manufacturer, wholesaler or dealer without first ascertaining that the transferee is the holder of an identification card issued pursuant to this subchapter or an equivalent document issued by another state, territory or possession of the United States, or the District of Columbia.

§ 2065. Security transactions

No person, other than a licensed firearms dealer, shall receive firearms as a pledge or pawn, or in any other manner as security.

A dealer receiving a firearm as a pledge, pawn or otherwise as security, shall record promptly the date of receipt; the full description of the item or items received, including the manufacturer, type and serial number or numbers, if any; the name and address of the person making the pledge, pawn or other deposit as security unless the person making the same exhibits an identification card evidencing his entitlement to possess and use a firearm.

Upon the return or other disposition of the firearm in his possession pursuant to this section, the dealer shall make a record of the return or other disposition, including the date thereof and the name and address of the person to whom the firearm was returned or disposed. No firearms shall be returned or disposed of to any person who, at the time of such return or disposition, does not exhibit a valid identification card issued in his own name.

§ 2066. Manufacturers and wholesalers

No person shall manufacture or deal in firearms or ammunition at wholesale unless he is the holder of a dealer's license issued pursuant to section 2059, or he is the holder of a license issued pursuant to this section.

Any person proposing to manufacture or deal at wholesale in firearms or ammunition, and not the holder of a dealer's license, shall make application for a manufacturer's or wholesaler's license. Such application shall contain the same information required for a dealer's license, and any additional information required by the commissioner as may be appropriate to administer this subchapter. No manufacturer's license or wholesaler's license shall authorize sale or delivery within this State except to a dealer, manufacturer or wholesaler or to the United States, a state, territory, possession or subdivision thereof or the District of Columbia, a licensed dealer, or subject to applicable laws of the United States for export.

The commissioner shall issue, renew, cancel, deny, suspend and revoke manufacturers' and wholesalers' licenses on the same terms and subject to the same conditions as provided for dealer's licenses, except that requirements relating to the possessions of identification cards by persons having access to firearms shall not apply.

Every manufacturer shall assign a unique serial number to each firearm manufactured by him and shall inscribe such number in or on the firearm in such manner as will resist removal, alteration, defacement or obliteration. The commissioner may make regulations for the style of such serial numbers and for the manner of their inscription.

§ 2067. Cancellation, denial, suspension and revocation of licenses

1. Cancellation. Any license issued pursuant to this subchapter shall be surrendered for cancellation immediately on the discontinuance or termination of business or upon the holder's discontinuing the manufacturing, selling, acquisition for sale or repair of firearms and the sale of ammunition.

2. Violations. The issuing officer or agency may deny, suspend or revoke a license issued pursuant to this subchapter for failure of the applicant or holder to meet or continue to meet any of the requirements for eligibility therefor, or for any violation of this subchapter or regulations in force pursuant thereto.

3. Classifications of offenses. The commissioner, by regulation, shall make classifications of offenses and other violations of this subchapter or regulations in force thereunder. Regulations made pursuant to this sub-

section shall set forth those offenses and violations for which licenses may be suspended or revoked, and those for which the penalty must be revocation. Such regulations shall be of general application.

4. Appeal. Any applicant or holder of a license aggrieved by a denial, suspension or revocation of a license may within 90 days after receipt of notice appeal to the District Court for a review of such action. Suspension of license may be immediate and prior to hearing or any other proceedings, provided that hearing thereon, if requested by the applicant or holder, shall be held within 30 days of the request.

§ 2068. Prohibitions

1. Prohibitions. No person shall:

A. Knowingly remove, obliterate or alter the importer's or manufacturer's serial number of any gun;

B. Knowingly deface, alter or destroy an identification card;

C. Knowingly give false information on an application for a firearms identification card or for a dealer's, manufacturer's or wholesaler's license;

D. Acquire, possess or use any firearm silencer or muffler;

E. Carry any gun while under the influence of alcohol or narcotic or other disabling drug. Standards, tests and procedures applicable in determining whether a person is "under the influence," within the meaning of this provision, shall be those applicable pursuant to Title 29, section 1312.

§ 2069. Target ranges and hunting

The operator of a target range, and any person employed therein who has access to firearms shall have an identification card evidencing eligibility to purchase, possess and use firearms. But no patrons of the range shall be required to have an identification card, provided that no guns are permitted to leave the premises and that the operator or his agent is present at all times when the range is open for use.

A nonresident of this State who is engaged in hunting, or in traveling to and from a location within the State for the purpose of hunting shall not be required to have an identification card, if he is the holder of a nonresident hunting license and if, when the firearm is not in use, it is unloaded and carried in a closed case or other securely wrapped or closed package or container, or locked in the trunk of an automobile.

§ 2070. Local laws

Nothing in this subchapter shall be deemed to prevent any county or municipality from further restricting, by local law or ordinance, the possession, use or carriage of firearms.

§ 2071. Regulations

The department and any authorized local government agency shall have power to issue, amend and repeal regulations implementing this subchapter as may be required by the public interest, safety and welfare.

§ 2072. Fees

The department shall charge the following fees:

1. Cards. Two dollars for the issuance and reissuance of identification cards.
2. Licenses. Five dollars for the issuance and reissuance of licenses for dealers, manufacturers and wholesalers.

§ 2073. Disposition of moneys

All fees collected for the issuance or reissuance of identification cards and licenses shall be paid to the Treasurer of State and credited to the department for the administration of this subchapter and other authorized programs of the department.

If any such fees are not expended during the year in which they are collected, the unexpended balance shall not lapse, but be carried as a continuing account and available for the purposes specified until expended.

§ 2074. Penalties

Any person who manufactures, purchases, sells, possesses or carries any firearms other than as provided in this subchapter, or who violates any terms of this subchapter, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both.

Sec. 2. Effective date. This Act shall become effective on January 1, 1970.