

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2409

H.P. 1745

House of Representatives, March 5, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MELENDY of Rockland.

Cosponsored by Representative CONSTANTINE of Bar Harbor, Representative HOGLUND of Portland and Senator BRANNIGAN of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Promote the Awareness and Responsibility of Owners of
Firearms.**



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

4 Sec. 1. 15 MRSA §458 is enacted to read:

6 §458. Warning required upon sale of firearm

8 1. Provision of written warning. Upon the retail
10 commercial sale or commercial transfer of any firearm, the seller
12 or transferor shall provide to the buyer or transferee the
14 following written warning in block letters not less than 1/4 inch
in height: "IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR
EASY ACCESS OF A CHILD YOU MAY BE FINED OR IMPRISONED OR BOTH IF
THE CHILD IMPROPERLY DISCHARGES THE FIREARM AND CAUSES BODILY
INJURY."

16 2. Posting of conspicuous warning. Any store, shop or
18 sales outlet that sells firearms shall conspicuously post at each
purchase counter where firearms may be purchased the following
20 warning in block letters not less than one inch in height: "IF
YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A
22 CHILD YOU MAY BE FINED OR IMPRISONED OR BOTH IF THE CHILD
IMPROPERLY DISCHARGES THE FIREARM AND CAUSES BODILY INJURY."

24 3. Violation. Any person who violates any requirements of
26 this section is guilty of a Class E crime.

28 Sec. 2. 17-A MRSA §§1057 and 1058 are enacted to read:

30 §1057. Providing child with access to loaded firearm

32 For purposes of this section, "child" means a person who has
not attained the age of 16 years.

34 1. Except as provided in subsection 2, a person is guilty
36 of recklessly providing a child with access to a loaded firearm
if:

38 A. The person recklessly stores or leaves a loaded firearm
40 within the reach or easy access of a child;

42 B. The child obtains the firearm without the lawful
44 permission of the child's parent or guardian or the person
having charge of the child; and

46 C. The child discharges the firearm and the discharge
48 causes bodily harm or death to the child or to another
person.

50 2. A person is not guilty under subsection 1, if:

2 A. The firearm is stored or left in a securely locked box
4 or container or in a location that a reasonable person would
6 believe to be secure;

8 B. The firearm is stored or left in a portion of a
10 residential dwelling, place of business or other structure
12 not usually frequented by children and is not in plain view
14 in a drawer, cabinet, compartment or other concealed
16 location, whether locked or unlocked;

18 C. The firearm is securely locked with a trigger lock;

20 D. The firearm is on the person's body or in such proximity
22 to the person's body that the person could retrieve it as
24 easily and quickly as if carried on the person's body;

26 E. The person is a peace officer or a member of the United
28 States Armed Forces or the National Guard and the child
30 obtains the firearm during or incidental to the performance
32 of the person's duties; or

34 F. The child obtains the firearm as a result of an illegal
36 entry by another person.

38 3. If a person who violates subsection 1 is or was the
40 parent or guardian of a child who is injured or dies as a result
42 of the discharge of the firearm, a district attorney may
44 consider, among other factors, the impact of the injury or death
46 on that person when deciding whether to issue a complaint
48 regarding the violation. This subsection does not restrict the
50 factors that a district attorney may consider in deciding whether
to issue a complaint regarding any violation.

4. If a person who violates subsection 1 is or was the
parent or guardian of a child who is injured or dies as a result
of the discharge of the firearm, a law enforcement officer may
not arrest that person until at least 7 days after the date of
the shooting.

5. Violation of this section is a Class D crime.

§1058. Provision of firearms to children

For purposes of this section, "child" means a person who has
not attained the age of 16 years.

1. A person is guilty of providing a firearm to a child if
that person knowingly sells, loans or gives a firearm to a child,
that child discharges the firearm, and the discharge causes
bodily harm or death to the child or to another person.

2 2. If a person who violates subsection 1 is or was the
3 parent or guardian of a child who is injured or dies as a result
4 of the discharge of the firearm, a district attorney may
5 consider, among other factors, the impact of the injury or death
6 on that person when deciding whether to issue a complaint
7 regarding the violation. This subsection does not restrict the
8 factors that a district attorney may consider in deciding whether
9 to issue a complaint regarding any violation.

10 3. If a person who violates subsection 1 is or was the
11 parent or guardian of a child who is injured or dies as a result
12 of the discharge of the firearm, a law enforcement officer may
13 not arrest that person until at least 7 days after the date of
14 the shooting.

15 4. Violation of this section is a Class D crime.

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STATEMENT OF FACT

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21 The purposes of this bill are to promote awareness of the
22 dangers associated with children's unrestricted access to
23 firearms and to prevent the tragic accidents that often result
24 from such access. The bill accomplishes the following.

26

27 1. It requires that sellers of firearms warn buyers that
28 leaving loaded firearms within a child's access could result in a
29 fine or imprisonment if the child discharges the firearm and
30 causes bodily injury or death.

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31 2. It creates, with a number of exceptions, penalties
32 applicable to persons who recklessly leave loaded firearms within
33 access of a child under the age of 16 if the child obtains the
34 weapon and causes bodily injury or death.

34

35 3. It creates, with a number of exceptions, penalties
36 applicable to persons who sell, loan or give firearms to a child
37 under the age of 16 if that child discharges the firearm, causing
38 bodily harm or death.

40

41 4. It provides that if the person who recklessly provides
42 access to firearms or gives or sells firearms to a child is the
43 parent or guardian of a child who is accidentally shot, that
44 person is not subject to arrest until at least 7 days after the
45 shooting. It also provides that, in those situations, a district
46 attorney may consider the impact of the injury or death on the
47 parent or guardian when deciding whether the case should be
48 prosecuted.

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