

MAINE STATE LEGISLATURE

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12-21-95
R of S

L.D. 1509

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DATE: May 30, 1995

(Filing No. S-199)

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CRIMINAL JUSTICE

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Reported by: Senator HALL of Piscataquis for the Committee.

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Reproduced and distributed under the direction of the Secretary of the Senate.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

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COMMITTEE AMENDMENT " A " to S.P. 550, L.D. 1509, Bill, "An Act to Prohibit the Sale of Firearms to Minors without Parental Approval"

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Amend the bill by striking out all of section 3 and inserting in its place the following:

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Sec. 3. 17-A MRSA §554-A is enacted to read:

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§554-A. Unlawful transfer of a firearm to a minor

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1. As used in this section, the following terms have the following meanings.

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A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

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B. "Minor" means a person under 16 years of age.

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2. A person is guilty of unlawfully transferring a firearm to a minor if that person, who is not the parent, foster parent or guardian of the minor, knowingly transfers a firearm to a minor.

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3. It is an affirmative defense to a prosecution under subsection 2 that:

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A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief

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COMMITTEE AMENDMENT "A" to S.P. 550, L.D. 1509

2 can not be based solely upon the physical appearance of the
3 person or upon the oral representation of that person as to
4 that person's age; or

6 B. The transfer of the firearm to the minor was approved by
7 the parent, foster parent or guardian of the minor.

8 4. Unlawful transfer of a firearm to a minor is a Class D
9 crime.'

10 Further amend the bill by inserting at the end before the
11 statement of fact the following:

14 **FISCAL NOTE**

16 This bill may increase prosecutions for Class D crimes. If
17 a jail sentence is imposed, the additional costs to the counties
18 are estimated to be \$83.22 per day per prisoner. These costs are
19 not reimbursed by the State. The number of prosecutions that may
20 result in a jail sentence and the resulting costs to the county
21 jail system are expected to be insignificant.

22 The additional workload, administrative costs and indigent
23 defense costs associated with the minimal number of new cases
24 filed in the court system can be absorbed within the budgeted
25 resources of the Judicial Department. The collection of
26 additional fines may also increase General Fund revenue by minor
27 amounts.'

30 **STATEMENT OF FACT**

32 This amendment replaces section 3 of the bill. The
33 amendment creates a new Class D crime of unlawful transfer of a
34 firearm to a minor. A person who is not the parent, foster
35 parent or guardian of the transferee is guilty of transferring a
36 firearm to a minor if the person to whom the firearm is
37 transferred is in fact a minor.

40 The amendment creates 2 affirmative defenses to the crime of
41 unlawful transfer of a firearm to a minor. If the transferor
42 reasonably believed the other person was 16 years of age or
43 older, and that belief is not based only on the appearance or
44 word of the other person but on a picture identification,
45 driver's license or similar method for determining the
46 transferee's identity, it is an affirmative defense. If the
47 parent or guardian of the minor approves the transfer of a
48 firearm to a minor, it is also an affirmative defense.

50 The amendment also adds a fiscal note to the bill.

COMMITTEE AMENDMENT