

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 774

S.P. 209

In Senate, February 13, 2001

An Act to Require the Destruction of Confiscated and Forfeited Handguns.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Representative BAKER of Bangor and
Senators: BROMLEY of Cumberland, LaFOUNTAIN of York, Representatives:
BLANCHETTE of Bangor, BULL of Freeport, DESMOND of Mapleton, Speaker SAXL of
Portland, WATSON of Farmingdale.

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

2
4 **Sec. 1. 12 MRSA §7035, sub-§7**, as amended by PL 1995, c. 346, §1, is further amended to read:

6 **7. Sale of arms and ammunition.** The commissioner may sell all property held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife, except that a confiscated or forfeited handgun must be destroyed by the State. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand. The commissioner shall transmit all money received by the sales to the Treasurer of State to be credited to the department.

16 **Sec. 2. 15 MRSA §5821, sub-§3-A**, as enacted by PL 1989, c. 448, §2, is amended to read:

18 **3-A. Firearms and other weapons.** Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs in which scheduled drugs are found. Except for those seized weapons listed in a petition filed in the Superior Court pursuant to section 5822, all weapons seized, after notice and opportunity for hearing shall must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon shall need not be forfeited if the owner appears prior to the declaration of forfeiture and satisfies the court, by a preponderance of evidence, of all of the following:

32 A. That the owner had a possessory interest in the weapon at the time of the seizure sufficient to exclude every person involved with the seized drugs or every person at the site of the seizure;

36 B. That the owner had no knowledge of or involvement with the drugs and was not at the site of the seizure; and

40 C. That the owner had not given any involved person permission to possess or use the weapon.

42 Post-hearing procedures shall ~~be~~ are as provided in section 5822.

44 A confiscated or forfeited handgun must be destroyed by the State. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolve, designed to be fired by use of a single hand.

