

MAINE STATE LEGISLATURE

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Bois

L.D. 310

DATE: 5/5/05

(Filing No. H-264)

CRIMINAL JUSTICE AND PUBLIC SAFETY

Majority

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 234, L.D. 310, Bill, "An Act To Require a 10-day Waiting Period for the Purchase of Firearms by a Person under 22 Years of Age"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit the Transfer of a Firearm to a Person under 18 Years of Age without Parental Permission'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 17-A MRSA §554-A, as amended by PL 2003, c. 188, §1, is repealed.

Sec. 2. 17-A MRSA §554-B, as enacted by PL 2003, c. 188, §2, is repealed.

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

§554-C. Unlawful transfer of firearm to minor

1. A person is guilty of unlawful transfer of a firearm to a minor if that person, who is not the parent, foster parent or guardian of the minor, intentionally or knowingly transfers a firearm to a minor.

2. It is an affirmative defense to prosecution under this section that:

COMMITTEE AMENDMENT

R.O.S.

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A. The actor reasonably believed the person receiving the firearm had attained 18 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of the person as to that person's age;

B. The transfer of the firearm to the minor was with the prior written consent of the minor's parent, foster parent or guardian and that parent, foster parent or guardian was not at the time of the transfer prohibited by federal or state law from possessing a firearm;

C. The transfer of the firearm was by inheritance of title to, but not possession of, the firearm to the minor;

D. The transfer of the firearm to the minor was temporary and occurred in the course of employment, target practice, hunting or instruction in the safe and lawful use of a firearm;

E. The transfer of the firearm to the minor was temporary and occurred as a consequence of the minor's being a member of the United States Armed Forces or the state military forces and being armed in the line of duty; or

F. The transfer of the firearm to the minor was temporary and occurred under circumstances in which the minor was defending a person under section 108, subsection 2 or defending a dwelling place under section 104, subsections 3 and 4.

3. The State may not permanently confiscate a firearm that is transferred to a minor in circumstances in which the transferor is not in violation of this section and if the possession of the firearm by the minor subsequently becomes unlawful because of the conduct of the minor. When that firearm is no longer required by the State for the purposes of investigation or prosecution, the firearm must be returned to the lawful owner.

4. The following penalties apply.

A. A person who violates this section commits a Class D crime, except as provided in paragraph B.

B. A person who violates this section and, at the time of the offense, has a prior conviction for unlawfully transferring a firearm to a minor or for a violation of former section 554-A or former section 554-B commits a Class C crime. Section 9-A governs the use of prior convictions when determining a sentence.

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

4 A. "Minor" means a person under 18 years of age.

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

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10 **SUMMARY**

12 This amendment replaces the bill and is the majority report
14 of the Joint Standing Committee on Criminal Justice and Public
16 Safety. The amendment repeals the current provisions regarding
18 transferring a firearm to a minor and regarding transferring a
20 handgun to a minor and combines them into one section to prohibit
22 the transfer without parental consent of any firearm to a person
24 under 18 years of age. The amendment describes the prohibited
conduct and creates affirmative defenses to the crime, some of
which currently exist as affirmative defenses in the Maine
Revised Statutes, Title 17-A, section 554-A and some of which
currently exist as exceptions to the crime in Title 17-A, section
554-B. The amendment also changes the title to reflect the
intent of the amendment.