

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1579

S.P. 561

In Senate, April 26, 2005

An Act To Extend the Ban on Assault Weapons

Reference to the Committee on Criminal Justice and Public Safety 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 STRIMLING of Cumberland.
Cosponsored by Representative BLANCHETTE of Bangor and
Senator: BRENNAN of Cumberland, Representatives: CHURCHILL of Washburn, DAVIS of
Augusta, GERZOFKY of Brunswick, GROSE of Woolwich, LERMAN of Augusta,
PARADIS of Frenchville.

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

4 **Sec. 1. 17-A MRSA §1058 is enacted to read:**

6 **§1058. Manufacture, transfer or possession of assault weapon or
.50 caliber rifle or ammunition**

8 **1. A person is guilty of manufacture, transfer or
possession of an assault weapon, a .50 caliber rifle or .50
10 caliber ammunition if, without authority to do so, the person
knowingly manufactures or causes to be manufactured, knowingly
12 transfers or knowingly possesses an assault weapon, a .50 caliber
rifle or .50 caliber ammunition.**

14 **2. As used in this section, unless the context otherwise
16 indicates, the following terms have the following meanings.**

18 **A. "Antique firearm" means any firearm manufactured prior
to January 1, 1899.**

20 **B. "Assault weapon" means:**

22 **(1) The following specified rifles:**

24 **(a) All AK series, including, but not limited to,
26 the models identified as follows:**

28 **(i) Made in China AK, AKM, AKS, AK47, AK47S,
56, 56S, 84S and 86S;**

30 **(ii) Norinco 56, 56S, 84S and 86S;**

32 **(iii) Poly Technologies AKS and AK47;**

34 **(iv) MAADI AK47 and ARM;**

36 **(v) UZI and Galil;**

38 **(vi) Beretta AR-70;**

40 **(vii) CETME Sporter;**

42 **(viii) Colt AR-15 series;**

44 **(ix) Daewoo K-1, K-2, Max 1, Max 2, AR 100
46 and AR110 C;**

48 **(x) Fabrique Nationale FAL, LAR, FNC, 308
50 Match and Sporter;**

2 (xi) MAS 223; and

4 (xii) HK-91, HK-93, HK-94 and HK-PSG-1;

6 (b) The following MAC types, including, but not
8 limited to:

10 (i) RPB Industries, Inc. sM10 and sM11;

12 (ii) SWD Incorporated M11;

14 (iii) SKS with detachable magazine;

16 (iv) SIG AMT, PE-57, SG 550 and SG 551;

18 (v) Springfield Armory BM59 and SAR-48;

20 (vi) Sterling MK-6;

22 (vii) Steyer AUG;

24 (viii) Valmet M62S, M71S and M78S;

26 (ix) Armalite AR-180;

28 (x) Bushmaster Assault Rifle;

30 (xi) Calico M-900;

32 (xii) J&R ENG M-68; and

34 (xiii) Weaver Arms Nighthawk;

36 (2) The following specified pistols, including, but
38 not limited to:

40 (a) UZI; and

42 (b) Encom MP-9 and MP-45;

44 (3) The following MAC types:

46 (a) RPB Industries, Inc. sM10 and sM11;

48 (b) SWD Incorporated M-11;

50 (c) Advance Armament Inc. M-11;

(d) Military Armament Corp. Ingram M-11;

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(e) Intratec TEC-9;

(f) Sites Spectre;

(g) Sterling MK-7;

(h) Calico M-950; and

(i) Bushmaster Pistol;

(4) The following specified shotguns:

(a) Franchi SPAS 12 and LAW 12;

(b) Striker 12; and

(c) The Streetsweeper type S/S Inc. SS/12;

(5) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:

(a) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(b) A thumbhole stock;

(c) A folding or telescoping stock;

(d) A grenade launcher or flare launcher;

(e) A flash suppressor; or

(f) A forward pistol grip;

(6) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(7) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches;

(8) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(a) A threaded barrel, capable of accepting a flash suppressor, forward handgrip or silencer;

(b) A second handgrip;

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(c) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel; or

(d) The capacity to accept a detachable magazine at some location outside of the pistol grip;

(9) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds;

(10) A semiautomatic shotgun that has both of the following:

(a) A folding or telescoping stock; and

(b) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock or vertical handgrip;

(11) A semiautomatic shotgun that has the ability to accept a detachable magazine; and

(12) Any shotgun with a revolving cylinder.

"Assault weapon" does not include any antique firearm or competition pistol.

C. "Capacity to accept more than 10 rounds" means capable of accommodating more than 10 rounds, but may not be interpreted to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

D. "Competition pistol" means a pistol that is sanctioned by the International Olympic Committee and by the national governing body for international shooting competition in the United States and that is used for Olympic target shooting purposes, including the following pistols:

(1) Benelli MP90 .22LR;

(2) Benelli MP90 .32 S&W LONG;

(3) Benelli MP95 .22LR;

(4) Benelli MP95 .32 S&W LONG;

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- (5) Hammerli 280 .22LR;
- (6) Hammerli 280 .32 S&W LONG;
- (7) Hammerli SP20 .22LR;
- (8) Hammerli SP20 .32 S&W LONG;
- (9) Pardini GPO .22 SHORT;
- (10) Pardini GP-SCHUMANN .22 SHORT;
- (11) Pardini HP .32 S&W LONG;
- (12) Pardini MP .32 S&W LONG;
- (13) Pardini SP .22LR;
- (14) Pardini SPE .22LR;
- (15) Walther GSP .22LR;
- (16) Walther GSP .32 S&W LONG;
- (17) Walther OSP .22 SHORT; and
- (18) Walther OSP-2000 .22 SHORT.

E. "Fifty caliber rifle" or ".50 caliber rifle" means a centerfire rifle that can fire .50 caliber ammunition and is not an assault weapon pursuant to paragraph B; ".50 caliber rifle" does not include any antique firearm.

F. "Magazine" means any ammunition feeding device.

G. "Series" includes all other models that are only variations, with minor differences, of those models listed in this section, regardless of the manufacturer.

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

3. Manufacture, transfer or possession of an assault weapon, a .50 caliber rifle or .50 caliber ammunition is a Class D crime.

4. The Attorney General and the Chief of the State Police shall create a system for identifying and exempting new models of competitive pistols that would otherwise fall within the definition of "assault weapon" pursuant to this section from

2 being classified as assault weapons. The exempt competitive
3 pistols may be based on recommendations by the national governing
4 body for international shooting competition in the United States
5 consistent with the regulations contained in that organization's
6 official rules or may be based on the recommendation or rules of
7 any other organization that the department deems relevant.

8 5. The Attorney General and the Chief of the State Police
9 shall create a system for identifying any other models of assault
10 weapons that are only variations of those weapons with minor
11 differences that are prohibited by this section, regardless of
12 the manufacturer.

13 6. The Attorney General shall adopt rules to implement the
14 purposes of this section. Rules adopted pursuant to this section
15 are routine technical rules as defined in Title 5, chapter 375,
16 subchapter 2-A.

17 **Sec. 2. 17-A MRSA §§1052 to 1054, as enacted by PL 1975, c.**
18 **499, §1, are amended to read:**

19 **§1052. Right to possess, carry or transport machine gun, assault**
20 **weapon, .50 caliber rifle or .50 caliber ammunition**

21 Any law enforcement officer of the State of Maine, any law
22 enforcement officer of another state or a territory of the United
23 States, members of the Armed Forces, Maine National Guard and
24 Maine State Guard may possess a machine gun, assault weapon or
25 .50 caliber rifle or .50 caliber ammunition if the possession or
26 carrying of such that weapon or ammunition is in the discharge of
27 his that person's official duties and has been authorized by his
28 that person's appointing authority.

29 Machine guns, assault weapons and .50 caliber rifles and
30 ammunition manufactured, acquired, transferred or possessed in
31 accordance with the National Firearms Act, as amended, ~~shall be~~
32 ~~are~~ exempt from this chapter.

33 **§1053. Confiscation and seizure of machine gun, assault weapon or**
34 **.50 caliber rifle or .50 caliber ammunition**

35 Any machine gun, assault weapon or .50 caliber rifle or .50
36 caliber ammunition possessed in violation of section 1051 or
37 section 1058 is declared to be contraband and is subject to
38 forfeiture to the State. Any law enforcement officer ~~shall have~~
39 ~~has~~ the power to seize the same with due process.

40 When a machine gun, assault weapon or .50 caliber rifle or
41 .50 caliber ammunition is seized as provided, the officer seizing
42 the same shall immediately file with the judge before whom such

2 warrant is returnable, a libel against the machine gun, assault
4 weapon or .50 caliber rifle or .50 caliber ammunition, setting
6 forth the seizure and describing the machine gun, assault weapon
8 or .50 caliber rifle or .50 caliber ammunition and the place of
10 seizure in a sufficient manner to reasonably identify it, that it
12 was possessed in violation of law and pray for a decree of
14 forfeiture thereof. ~~Sueh~~ The judge shall fix a time for the
16 hearing of such libel and shall issue ~~his~~ the monition and notice
18 of same to all persons interested, citing them to appear at the
20 time and place appointed to show cause why such machine gun,
22 assault weapon or .50 caliber rifle or .50 caliber ammunition
24 should not be declared forfeited, by causing true and attested
26 copies of ~~said~~ the libel and monition to be posted in 2 public
28 and conspicuous places in the town and place where such machine
30 gun, assault weapon or .50 caliber rifle or .50 caliber
32 ammunition was seized, 10 days at least before ~~said~~ the libel is
returnable. In addition, a true and attested copy of the libel
and monition shall ~~must~~ be served upon the person from whom ~~said~~
the machine gun, assault weapon or .50 caliber rifle or .50
caliber ammunition was seized and upon the owner thereof, if
their ~~the~~ person's whereabouts can be readily ascertained 10 days
at least before ~~said~~ the libel is returnable. In lieu of
forfeiture proceedings, title to such seized machine gun, assault
weapon or .50 caliber rifle or .50 caliber ammunition may be
transferred in writing to the State ~~of--~~ Maine by the owner
thereof. If title to and ownership in the machine gun, assault
weapon or .50 caliber rifle or .50 caliber ammunition is
transferred to the State, a receipt for the machine gun shall,
assault weapon or .50 caliber rifle or .50 caliber ammunition
must be given to the former owner by the law enforcement officer
who seized the machine gun, assault weapon or .50 caliber rifle
or .50 caliber ammunition.

34 **§1054. Forfeiture of machine gun, assault weapon, .50 caliber**
36 **rifle or .50 caliber ammunition**

38 If no claimant for a machine gun, assault weapon or .50
40 caliber rifle or .50 caliber ammunition seized under the
42 authority of section 1053 appears, the judge shall, on proof of
44 notice, declare the same to be forfeited to the State. If any
46 person appears and claims such machine gun, assault weapon or .50
48 caliber rifle or .50 caliber ammunition, as having a right to the
50 possession thereof at the time when the same was seized, he the
person shall file with the judge a claim in writing stating
specifically the right so claimed, the foundation thereof, the
item so claimed, any exemption claimed, the time and place of the
seizure and the name of the law enforcement officer who seized
the machine gun, assault weapon or .50 caliber rifle or .50
caliber ammunition, and in it declare that it was not possessed
in violation of this chapter, and state ~~his~~ that person's

2 business and place of residence and sign and make oath to the
3 same before said the judge. If any person so makes claim, he
4 shall that person must be admitted as a party to the process, and
5 the libel, and may hear any pertinent evidence offered by the
6 libelant or claimant. If the judge is, upon hearing, satisfied
7 that said the machine gun, assault weapon or .50 caliber rifle or
8 .50 caliber ammunition was not possessed in violation of this
9 chapter, and that claimant is entitled to the custody thereof, he
10 the judge shall give an order in writing, directed to the law
11 enforcement officer having seized the same, commanding him the
12 law enforcement officer to deliver to the claimant the machine
13 gun, assault weapon or .50 caliber rifle or .50 caliber
14 ammunition to which he the claimant is so found to be entitled,
15 within 48 hours after demand. If the judge finds the claimant not
16 entitled to possess the machine gun, assault weapon or .50
17 caliber rifle or .50 caliber ammunition, he the judge shall
18 render judgment against him the claimant for the libelant for
19 costs, to be taxed as in civil cases before such judge, and issue
20 execution thereon, and shall declare such machine gun, assault
21 weapon or .50 caliber rifle or .50 caliber ammunition forfeited
22 to the State. The claimants may appear and shall recognize with
23 sureties as on appeals in civil actions from a judge. The judge
24 may order that the machine gun, assault weapon or .50 caliber
25 rifle or .50 caliber ammunition remain in the custody of the
26 seizing law enforcement officer, pending the disposition of the
27 appeal. All machine guns, assault weapons or .50 caliber rifles
28 or .50 caliber ammunition declared forfeited to the State, or
29 title titles to which have been transferred to the State in lieu
30 of forfeiture proceedings shall must be turned over to the Chief
31 of the Maine State Police. If said the machine gun, assault
32 weapon or .50 caliber rifle or .50 caliber ammunition is found to
33 be of a historic, artistic, scientific or educational value, the
34 State Police may retain the machine gun, assault weapon or .50
35 caliber rifle or .50 caliber ammunition for an indefinite period
36 of time. Any other machine gun, assault weapon or .50 caliber
37 rifle or .50 caliber ammunition declared forfeited and in
38 possession of the State Police shall must be destroyed by a means
39 most convenient to the Chief of the State Police.

40 SUMMARY

42 This bill creates the Class D crime of knowingly
43 manufacturing, transferring or possessing an assault weapon, a
44 .50 caliber rifle or .50 caliber ammunition. The Legislature has
45 defined assault weapons as the types, series and models listed in
46 this bill because it was the most effective way to identify and
47 restrict a specific class of semiautomatic weapons. The new
48 crime defines several terms, including "assault weapon" and ".50
49 caliber rifle" and directs the Attorney General and the Chief of

2 the State Police to create a system for identifying, exempting
and adding new models as necessary. "Assault weapon" and ".50
4 caliber rifle" do not include antique firearms. Pistols that are
sanctioned by the International Olympic Committee and by the
6 national governing body for international shooting competition in
the United States and that are used for Olympic target shooting
purposes are also exempted.

8
10 The bill amends current law regarding the confiscation,
seizure and forfeiture of machine guns, so that the same
12 procedures and due process apply to the confiscation, seizure and
forfeiture of assault weapons and .50 caliber rifles and
14 ammunition. Machine guns, assault weapons and .50 caliber rifles
and ammunition manufactured, acquired, transferred or possessed
16 in accordance with the National Firearms Act, as amended, are
exempt from these laws.

18 The crime of knowingly manufacturing, transferring or
possessing an assault weapon or .50 caliber rifle or ammunition
20 does not apply to any law enforcement officer of the State, any
law enforcement officer of another state or a territory of the
22 United States or a member of the Armed Forces, Maine National
Guard or Maine State Guard who possesses an assault weapon or .50
24 caliber rifle or ammunition if the possession or carrying of the
weapon or .50 caliber ammunition is in the discharge of that
26 person's official duties and has been authorized by that person's
appointing authority.