

MAINE STATE LEGISLATURE

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(Filing No. H- 122)

Minority

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 291, L.D. 361, Bill, "An Act To Create a Waiting Period for Firearms"

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

'An Act To Require Parental Permission for a Person under 18 Years of Age To Purchase a Firearm and To Require the Department of Public Safety and the Department of Health and Human Services To Conduct a Study Analyzing the Ownership Status of Firearms Used in Gun-related Suicides in Maine'

Amend the bill by striking out everything after the enacting clause and inserting 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'Sec. 1. 17-A MRSA §554-A, as amended by PL 2003, c. 188, §1, is repealed.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 amended to read:

§554-B. Unlawful transfer of firearm to minor

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

A. "Handgun" "Firearm" means any weapon, whether loaded or unloaded, that is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a handgun, pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon that can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm. For purposes of this paragraph, "handgun" means a firearm that has a short stock and is designed to be held and fired by the use of a single hand, or any combination of parts from which a handgun can be assembled.

B. "Minor" means a person under 18 years of age.

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

3 2. A person is guilty of unlawfully transferring a handgun firearm to a minor if that
4 person knowingly transfers a handgun firearm to a person who the transferor knows or
5 has reasonable cause to believe is a minor.

6 3. This section does not apply to:

7 A. A temporary transfer of a handgun firearm to a minor:

8 (1) With the prior written consent of the minor's parent or guardian and that
9 parent or guardian is not prohibited by federal, state or local law from possessing
10 a firearm; or

11 (2) In the course of employment, target practice, hunting or instruction in the
12 safe and lawful use of a handgun firearm.

13 The minor may transport an unloaded handgun firearm in a locked container
14 directly from the place of transfer to a place at which an activity described in this
15 subparagraph is to take place and directly from the place at which such an
16 activity took place to the transferor;

17 B. A minor who is a member of the United States Armed Forces or the National
18 Guard who possesses or is armed with a handgun firearm in the line of duty;

19 C. A transfer by inheritance of title to, but not possession of, a handgun firearm to a
20 minor; or

21 D. The transfer of a handgun firearm to a minor when the minor takes the handgun
22 firearm in self-defense or in defense of another person against an intruder into the
23 residence of the minor or a residence in which the minor is an invited guest.

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

30 5. The following penalties apply.

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

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

37 **Sec. 3. Study of firearms ownership by the Department of Public Safety**
38 **and the Department of Health and Human Services.** The Department of Public
39 Safety, in cooperation with the Department of Health and Human Services, shall conduct
40 a study to determine the ownership status of firearms used in firearms-related suicides in

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1 the State. The Commissioner of Public Safety shall report the study's findings to the Joint
2 Standing Committee on Criminal Justice and Public Safety by January 15, 2008. Upon
3 receiving the report, the Joint Standing Committee on Criminal Justice and Public Safety
4 may submit legislation to the Second Regular Session of the 123rd Legislature.'

5 **SUMMARY**

6 This amendment replaces the bill and is the minority report of the Joint Standing
7 Committee on Criminal Justice and Public Safety. The amendment combines the
8 unlawful transfer of a firearm to a minor provision with the unlawful transfer of a
9 handgun to a minor provision and redefines "firearm" to include handguns for purposes of
10 the new section. The result requires written parental consent for a person who has not
11 attained 18 years of age to purchase or receive a firearm or handgun. The same
12 exceptions for a temporary transfer of a handgun to a minor that exist in current law apply
13 to the transfer of a firearm, including a handgun, to a minor under the amendment.

14 The amendment also directs the Department of Public Safety, in cooperation with the
15 Department of Health and Human Services, to conduct a study to determine the
16 ownership status of firearms used in firearms-related suicides in Maine. The
17 Commissioner of Public Safety shall report the study's findings to the Joint Standing
18 Committee on Criminal Justice and Public Safety by January 15, 2008. Upon receiving
19 the report, the Joint Standing Committee on Criminal Justice and Public Safety may
20 submit legislation to the Second Regular Session of the 123rd Legislature.

21 **FISCAL NOTE REQUIRED**
22 (See attached)



Approved: 04/10/07 *MAC*

123rd MAINE LEGISLATURE

LD 361

LR 852(02)

An Act To Create a Waiting Period for Firearms

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
Minor cost increase - Highway Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes a new Class C and D crime; increases correctional and judicial costs
The collection of additional fines may also increase General Fund revenue by minor amounts.