

MAINE STATE LEGISLATURE

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L.D. 2051

Date: 2/26/8

(Filing No. H-695)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1435, L.D. 2051, Bill, "An Act Regarding the Sale of Firearms to Minors"

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

'An Act To Prohibit the Sale of Firearms Other than Handguns to Persons 16 or 17 Years of Age without Parental Consent'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 17-A MRSA §554-A, as amended by PL 2003, c. 188, §1, is further amended to read:

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

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

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

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

C. "Sell" means to furnish, deliver or otherwise provide for consideration.

D. "Firearm" means a firearm other than a handgun as defined in section 554-B, subsection 1, paragraph A.

2. ~~Except as provided in section 554-B, a~~ A person is guilty of unlawfully transferring a firearm to a ~~minor~~ person under 16 years of age if that person, who is not the parent, foster parent or guardian of the ~~minor~~ person under 16 years of age, knowingly transfers a firearm to a ~~minor~~ person under 16 years of age. Violation of this subsection is a Class D crime.

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1435, L.D. 2051

1 2-A. A person is guilty of unlawfully selling a firearm to a person 16 years of age or
2 older and under 18 years of age if that person, who is not the parent, foster parent or
3 guardian of the person 16 years of age or older and under 18 years of age, knowingly sells
4 a firearm to a person 16 years of age or older and under 18 years of age.

5 A. A person who violates this subsection commits a civil violation for which a fine
6 of not more than \$500 may be adjudged.

7 B. A person who violates this subsection after having been adjudicated as having
8 committed one or more violations under this subsection commits a Class D crime.

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

10 A. The actor reasonably believed the person receiving the firearm had attained 16
11 years of age. A reasonable belief ~~can not~~ cannot be based solely upon the physical
12 appearance of the person or upon the oral representation of that person as to that
13 person's age; or

14 B. The transfer of the firearm to the ~~minor~~ person under 16 years of age was
15 approved by the parent, foster parent or guardian of the ~~minor~~ person under 16 years
16 of age.

17 **3-A.** It is an affirmative defense to a prosecution under subsection 2-A that:

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

22 B. The sale of the firearm to the person 16 years of age or older and under 18 years
23 of age was approved by the parent, foster parent or guardian of the person 16 years of
24 age or older and under 18 years of age.

25 ~~4. Unlawful transfer of a firearm to a minor is a Class D crime.~~

26 **SUMMARY**

27 This amendment prohibits the sale of a firearm to a person 16 years of age or older
28 and under 18 years of age. For purposes of this prohibition, "firearm" means a firearm
29 other than a handgun as defined in the Maine Revised Statutes, Title 17-A, section 554-B,
30 subsection 1, paragraph A.

31 The amendment provides an exception for a sale by a parent, foster parent or
32 guardian or a sale approved by a parent, foster parent or guardian.

33 The amendment makes the first offense of unlawfully selling a firearm other than a
34 handgun to person 16 years of age or older and under 18 years of age a civil violation for
35 which a fine of no more than \$500 may be imposed. A second or subsequent violation is
36 a Class D crime.

37 **FISCAL NOTE REQUIRED**

38 (See attached)

COMMITTEE AMENDMENT



Approved: 02/19/08 *mac*

123rd MAINE LEGISLATURE

LD 2051

LR 2744(02)

An Act Regarding the Sale of Firearms to Minors

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new civil violations and Class D crimes. The bill will primarily impact the county jail system. The current average cost to counties for a Class D crime is \$6,795 based on an average length of stay of 62 days at \$109.60 per day. The collection of additional fines may also increase General Fund revenue by minor amounts.