

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1168

H.P. 866

House of Representatives, March 17, 2011

An Act To Exempt Firearms Manufactured in this State from Federal Regulation

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CEBRA of Naples.
Cosponsored by Senator SNOWE-MELLO of Androscoggin and
Representatives: BLACK of Wilton, CRAFTS of Lisbon, DAVIS of Sangerville, GIFFORD of
Lincoln, HANLEY of Gardiner, LIBBY of Waterboro, SARTY of Denmark, TIMBERLAKE
of Turner.

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

2 **Sec. 1. 25 MRSA §2013** is enacted to read:

3 **§2013. Firearms; exemption from federal regulation**

4 **1. Findings.** The Legislature finds the following:

5 A. The United States Constitution, Amendment II reserves the right of the people to
6 keep and bear arms and provides that this right "shall not be infringed";

7 B. The United States Constitution, Amendment X, which states that the "powers not
8 delegated to the United States by the Constitution, nor prohibited by it to the States,
9 are reserved to the States respectively, or to the people," defines the total scope of
10 federal power as being that which has been delegated by the people of the several
11 states to the Federal Government in the United States Constitution;

12 C. The United States Constitution, Amendment IX guarantees to the people rights
13 not granted in the Constitution and reserves to the people certain rights;

14 D. The United States Constitution, Amendments IX and X determine that the
15 regulation of intrastate commerce is vested in the states, particularly if not expressly
16 preempted by federal law. Congress has not expressly preempted state regulation of
17 intrastate commerce pertaining to the manufacture on an intrastate basis of firearms,
18 firearm accessories and ammunition; and

19 E. The Constitution of Maine, Article I, Section 16 secures the citizens of Maine the
20 right to keep and bear arms and provides that this right "shall never be questioned."

21 **2. Definitions.** As used in this section, unless the context otherwise indicates, the
22 following terms have the following meanings.

23 A. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

24 B. "Firearm accessory" means an item that is used in conjunction with or mounted
25 upon a firearm but is not essential to the basic function of the firearm, including, but
26 not limited to, telescopic or laser sights, magazines, flash or sound suppressors,
27 folding or aftermarket stocks and grips, speedloaders, ammunition carriers and lights
28 for target illumination.

29 C. "Machine gun" means a weapon of any description, by whatever name known,
30 loaded or unloaded, that is capable of discharging a number of projectiles in rapid
31 succession by one manual or mechanical action on the trigger or firing mechanism.

32 **3. Federal regulation; exempt.** A firearm, a firearm accessory or ammunition that
33 is manufactured commercially or privately in the State after October 1, 2009 and remains
34 in the State is not subject to federal regulation. The firearm, firearm accessory or
35 ammunition must be clearly stamped "Made in Maine" on a central metallic part. A
36 firearm, a firearm accessory or ammunition that is purchased in the State and is stamped
37 with "Made in Maine" is exempt from registration, background checks and dealer
38 licensing requirements.

39 **4. Exception.** Subsection 3 does not apply to:

- 1 A. A firearm that cannot be carried and used by one person;
- 2 B. A firearm that has a bore diameter greater than 1 1/2 inches and that uses
- 3 smokeless powder as a propellant;
- 4 C. Ammunition with a projectile that explodes using an explosion of chemical
- 5 energy after the projectile leaves the firearm; or
- 6 D. A machine gun.

7

SUMMARY

8 This bill exempts from federal regulation firearms, firearm accessories and

9 ammunition that are made in the State and that remain in the State.