

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1182

H.P. 826

House of Representatives, March 26, 2013

An Act Regarding the Disposition of Firearms in State Custody

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TIMBERLAKE of Turner.
Cosponsored by Senator MASON of Androscoggin and
Representatives: BEAR of the Houlton Band of Maliseet Indians, BLACK of Wilton, CRAFTS of Lisbon, CRAY of Palmyra, DILL of Old Town, GIFFORD of Lincoln, LONG of Sherman, SHAW of Standish.

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

2 **Sec. 1. 25 MRSA §3503-A**, as amended by PL 2003, c. 657, §11, is repealed and
3 the following enacted in its place:

4 **§3503-A. Disposition of firearms and ammunition**

5 **1. Disposition of firearm and ammunition forfeited to or acquired by the State.**
6 Notwithstanding any other provision of this chapter, a law enforcement agency in
7 possession of a firearm or ammunition that is covered by this chapter; Title 15, section
8 3314 or chapter 517; or Title 17-A, section 1158-A; that was originally acquired by the
9 State or a political subdivision of the State for use by the State or political subdivision of
10 the State that is no longer needed; or that was turned in by a member of the public shall
11 transfer the firearm or ammunition to the Department of Public Safety to be:

12 A. Auctioned to a dealer as defined in 18 United States Code, Section 921(9)(11);

13 B. Used for training or experimental purposes;

14 C. Destroyed; or

15 D. Transferred to the Maine State Police Crime Laboratory for training or
16 experimental purposes, the Maine State Museum or an appropriate historical society.

17 A firearm or ammunition under this section that the department determines is unsafe for
18 use because of wear, damage, age or modification must be destroyed or transferred
19 pursuant to paragraph C or D at the determination of the department. All other firearms
20 or ammunition under this section must be disposed of pursuant to paragraph A, B or D.

21 **2. Determination of owner.** Prior to disposition of a firearm or ammunition
22 transferred to the Department of Public Safety under subsection 1, the department shall
23 determine if the firearm or ammunition has been lost by or stolen or otherwise unlawfully
24 obtained from an owner not involved in a crime. If the department determines that the
25 firearm or ammunition was lost by or stolen or unlawfully obtained from an owner not
26 involved in a crime, the department shall return the firearm or ammunition to the owner
27 unless the owner is ineligible to receive or possess a firearm or ammunition under state or
28 federal law.

29 **3. Auction.** The Department of Public Safety shall hold an auction under subsection
30 1, paragraph A either on the Internet on a rolling basis or at a live event that may be held
31 up to twice a year. An employee of the Bureau of State Police or of the law enforcement
32 agency from which the firearm or ammunition was received may not bid in an auction
33 held under this subsection. The Department of Public Safety may retain from the
34 proceeds of an auction under subsection 1, paragraph A an amount to reimburse the
35 department for the administration of this section with the remainder to be transferred to
36 the Treasurer of State to be used by the Department of Education for the purpose of
37 purchasing new textbooks or instructional software for students or to augment physical
38 education in elementary and secondary schools, except that the Department of Public
39 Safety may retain the entire proceeds of the auction of a firearm or ammunition originally
40 acquired by the State or political subdivision of the State for use by the State or political
41 subdivision of the State.

4. Immunity from liability. The State may not be held liable to any person for personal injuries or damage to property arising from the sale of a firearm or ammunition at an auction under subsection 1, paragraph A unless the State acted with gross negligence or recklessness involving the sale.

5. Records. The Department of Public Safety shall keep records of all firearms and ammunition disposed of pursuant to subsection 1, including the details of the disposition for each firearm or ammunition.

SUMMARY

This bill amends the provisions of law concerning the disposal of firearms and ammunition by the State to:

1. Include the disposition of firearms and ammunition acquired by the State or a political subdivision that are no longer needed or that are turned in by a member of the public;

2. Require all law enforcement agencies to transfer any forfeited or no longer needed firearms and ammunition to the Department of Public Safety;

3. Clarify that the Department of Public Safety may transfer firearms and ammunition to the Maine State Police Crime Laboratory or the Maine State Museum;

4. Require the Department of Public Safety to hold up to 2 firearm and ammunition auctions a year and require that only unsafe firearms or ammunition be destroyed or transferred to the Maine State Police Crime Laboratory or the Maine State Museum;

5. Place conditions on the auction of firearms and the use of the proceeds;

6. Make the State immune from liability for the sale of a firearm or ammunition at auction; and

7. Require the Department of Public Safety to keep records of the disposition of all firearms and ammunition disposed of pursuant to the provisions of this bill.