

MAINE STATE LEGISLATURE

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S.M.C.
R. 812

Date: 6/8/15

INLAND FISHERIES AND WILDLIFE

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 333, L.D. 942, Bill, "An Act To Permit the Use of Firearm Noise Suppression Devices in Hunting and To Provide for a Chief Law Enforcement Officer's Certification for Certain Firearms"

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

Sec. 1. 12 MRSA §11161 is enacted to read:

§11161. Noise suppression devices

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Hunting crime" means any criminal offense under this chapter or any criminal offense under any other provision of this Part involving the use of a firearm.

B. "Serious hunting violation" means any act by a person for which the person's hunting license is subject to revocation under this section or section 10902, subsection 4, 5, 6, 7 or 7-A.

C. "Noise suppression device" means a device used to suppress or deaden the sound or natural report of a firearm.

2. Permit. In accordance with this subsection, the commissioner may issue a permit to a person allowing that person to use a noise suppression device with a firearm when hunting any wild animals or wild birds the person is licensed to hunt under this chapter and for which use of the firearm is allowed or for the purpose of killing a wild animal or wild turkey under section 12401 or 12402.

A. A person applying for a permit:

(1) Shall show proof of lawful possession of the noise suppression device; and

(2) May not have had a hunting license revoked as a result of a serious hunting violation.

COMMITTEE AMENDMENT

1 B. A permit is valid until August 1, 2018, unless revoked under this section.
2 The commissioner may not issue a permit under this section after July 31, 2018.

3 **3. Violation; aggravating factor.** Except as provided in subsection 4, a person who
4 commits a hunting crime while in possession of a firearm with a noise suppression device
5 is subject to the following penalties in addition to any penalties otherwise applicable:

6 A. A \$1,000 mandatory fine; and
7 B. Mandatory revocation of the person's hunting license, and that person is ineligible
8 to obtain a hunting license for a period of 5 years from the date of conviction.

9 **4. Serious hunting violation; permanent loss of license.** A person who commits a
10 serious hunting violation while in possession of a firearm with a noise suppression device
11 is subject to the following provisions in addition to any penalties otherwise applicable:

12 A. Notwithstanding section 10902, the commissioner shall permanently revoke the
13 person's current hunting license and the privilege to obtain a hunting license; and

14 B. Notwithstanding any exemption under section 10502, the firearm and noise
15 suppression device must be seized and, subject to libel proceedings, disposed of
16 pursuant to section 10503.

17 **5. Revocation of permit.** The commissioner shall permanently revoke a permit
18 issued under this section to a person whose hunting license is revoked as a result of a
19 serious hunting violation.

20 **Sec. 2. 12 MRSA §11214, sub-§1, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2
21 and affected by c. 614, §9, is amended to read:

22 C. Use ~~Except as allowed under section 11161, use for hunting or possess for~~
23 hunting any firearm fitted or contrived with a device for deadening the sound of
24 explosion. This paragraph does not apply to:

25 (1) Military organizations authorized by law to bear arms or to the National
26 Guard in the performance of its duty;

27 **Sec. 3. 25 MRSA §2013** is enacted to read:

28 **§2013. Chief law enforcement officer's certification; certain firearms**

29 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
30 following terms have the following meanings.

31 A. "Certification" means the participation and assent of a chief law enforcement
32 officer necessary under federal law for the approval of an application to transfer or
33 make a firearm.

34 B. "Chief law enforcement officer" means an official or the official's designee who
35 the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
36 Explosives or successor agency identifies as eligible to provide certification.

37 C. "Firearm" has the same meaning as in the National Firearms Act, 26 United States
38 Code, Section 5845(a).

R. of S.

1 2. Chief law enforcement officer's certification. Within 15 days of receipt of an
2 application for certification, the chief law enforcement officer shall provide the
3 certification unless the chief law enforcement officer has information that prevents the
4 chief law enforcement officer from providing the certification.

5 A. If the chief law enforcement officer denies an application for certification under
6 this section, the chief law enforcement officer shall provide the applicant with a
7 written notification of the denial and the reason for the denial, which may not be
8 based upon a generalized objection to a private person's possessing, making or
9 transferring a firearm or to a certain type of firearm that is otherwise lawful.

10 B. The denial of an application for certification or a failure or refusal to provide a
11 certification in accordance with this section by a chief law enforcement officer may
12 be appealed by an applicant in the following manner:

13 (1) If the chief law enforcement officer is employed by a state agency, the denial
14 may be appealed pursuant to Title 5, section 11001 and the Maine Rules of Civil
15 Procedure, Rule 80C; and

16 (2) If the chief law enforcement officer is not employed by a state agency, the
17 denial may be appealed pursuant to the Maine Rules of Civil Procedure, Rule
18 80B.

19 3. Criminal history record check; search of premises. In making a certification
20 required by subsection 2, a chief law enforcement officer may require the applicant to
21 provide only such information as required by federal or state law to identify the applicant
22 and conduct a criminal history record check or to determine the disposition of an arrest or
23 proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm.
24 A chief law enforcement officer may not require access to or consent for an inspection of
25 any private premises as a condition of making a certification under this section.'

26 **SUMMARY**

27 This amendment replaces the bill but addresses both of the matters addressed in the
28 bill: the use of noise suppression devices while hunting and requirements governing a
29 chief law enforcement officer's certification of a federal application to transfer or make a
30 firearm.

31 The portion of this amendment relating to the use of noise suppression devices:

32 1. Until August 1, 2018, allows a person to use a noise suppression device while
33 hunting, as long as the person has lawful possession of the device and has not had a
34 hunting license revoked as a result of a serious hunting violation;

35 2. Provides for enhanced penalties for a person who commits a hunting violation
36 while in possession of a firearm with a noise suppression device;

37 3. Provides for the permanent revocation of a person's hunting license and the seizure
38 and libel of the person's firearm and noise suppression device if the person commits a
39 serious hunting violation while in possession of a firearm with a noise suppression
40 device; and

41 4. Provides definitions of "hunting crime" and "serious hunting violation."

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 333, L.D. 942

1 The portion of this amendment regarding a chief law enforcement officer's
2 certification on a person's federal application to transfer or make a firearm, including a
3 noise suppression device:

4 1. Directs a chief law enforcement officer to provide the certification within 15 days
5 of receipt, unless the officer has information that prevents the officer from providing the
6 certification. A generalized objection to a person's possessing or transferring a firearm or
7 a certain type of firearm is not sufficient;

8 2. Requires an officer who denies an application for certification to provide in
9 writing the reasons for the denial;

10 3. Clarifies that a denial of an application or refusal or failure to provide a
11 certification is a governmental action subject to appeal under the Maine Rules of Civil
12 Procedure; and

13 4. Limits the information an officer may require from an applicant for certification
14 and prohibits the officer from requiring access or consent to inspect any private premises
15 as a condition of making a certification.

16 **FISCAL NOTE REQUIRED**

17 **(See attached)**



127th MAINE LEGISLATURE

LD 942

LR 1796(02)

An Act To Permit the Use of Firearm Noise Suppression Devices in Hunting and To Provide for a Chief Law Enforcement Officer's Certification for Certain Firearms

Fiscal Note for Bill as Amended by Committee Amendment 'A'(S-218)

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

Fiscal Note

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

Correctional and Judicial Impact Statements

The collection of additional fines may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with providing the certification required under this legislation can be absorbed within existing budgeted resources.