

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1052

H.P. 781

House of Representatives, March 11, 2021

**An Act To Protect the Firearm Use and Possession Rights of Maine
Citizens during an Emergency**

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the rights of citizens of the State regarding firearms, ammunition and
4 related components are necessary for the citizens' security and safety; and

5 **Whereas,** during times of emergency, firearms, ammunition and related components
6 are even more necessary for citizens' security and safety; and

7 **Whereas,** in these times of an extended state of emergency, citizens' security and
8 safety is compromised without the protections of this legislation; and

9 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
10 the meaning of the Constitution of Maine and require the following legislation as
11 immediately necessary for the preservation of the public peace, health and safety; now,
12 therefore,

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

14 **Sec. 1. 25 MRSA §2011, sub-§5, ¶A,** as enacted by PL 2011, c. 626, §1, is
15 repealed.

16 **Sec. 2. 25 MRSA §2011, sub-§5, ¶A-1** is enacted to read:

17 A-1. The transport, storage, transfer, sale, commerce in, import and export of,
18 distribution, repair, maintenance and manufacture of firearms, ammunition and related
19 accessories and components, shooting ranges and other goods and services directly
20 related to lawful firearm possession, use, storage, maintenance, sale or transfer and
21 training in the use of firearms are life-sustaining essential businesses and services for
22 the purposes of safety and security during a state of emergency and any other statutorily
23 authorized responses to disaster, war, acts of terrorism, riot or civil disorder, public
24 health crises or emergencies of whatever kind or nature.

25 **Sec. 3. 25 MRSA §2011, sub-§5, ¶A-2** is enacted to read:

26 A-2. Notwithstanding any provision of law to the contrary, a state agency, political
27 subdivision or any elected or appointed official or employee of the State or political
28 subdivision may not, under any governmental authority or color of law, including any
29 statutorily authorized responses to disaster, war, acts of terrorism or emergency:

30 (1) Prohibit, regulate or curtail the otherwise lawful possession, carrying, sale,
31 transportation, transfer, defensive use or other lawful use of any:

32 (a) Firearm, including any component or accessory of a firearm;

33 (b) Ammunition, including any component or accessory of ammunition;

34 (c) Ammunition reloading equipment and supplies;

35 (d) Personal weapon other than a firearm; or

36 (2) Seize, commandeer or confiscate any:

37 (a) Firearm, including any component or accessory of a firearm;

38 (b) Ammunition, including any component or accessory of ammunition;

39 (c) Ammunition reloading equipment and supplies; or

- 1 (d) Personal weapon other than a firearm;
- 2 (3) Suspend or revoke a permit to carry a concealed handgun issued pursuant to
3 Title 25, chapter 252, except as expressly authorized in that chapter;
- 4 (4) Refuse to accept an application for a permit to carry a concealed handgun for
5 which an application has been properly completed pursuant to Title 25, chapter
6 252;
- 7 (5) Close or limit the operating hours of any entity engaged in the lawful selling or
8 servicing of firearms, including components or accessories of firearms,
9 ammunition, including any components or accessories of ammunition, ammunition
10 reloading equipment and supplies or personal weapons other than firearms, unless
11 the closing or limitation of hours applies equally to all forms of commerce within
12 the jurisdiction;
- 13 (6) Close or limit the operating hours of any indoor or outdoor shooting range that
14 is located on state property or other property or any entity engaged in providing
15 firearms safety, firearms training, firearms license qualification or requalification,
16 firearms safety instructor courses or any similar classes, courses or programs;
- 17 (7) Place restrictions or quantity limitations on an entity regarding the lawful sale
18 or servicing of any:
- 19 (a) Firearm, including any component or accessory of a firearm;
- 20 (b) Ammunition, including any component or accessory of ammunition;
- 21 (c) Ammunition reloading equipment and supplies; or
- 22 (d) Personal weapon other than a firearm;
- 23 (8) Require registration of a firearm, ammunition or any component or accessory
24 of a firearm or ammunition; or
- 25 (9) Suspend, restrict or prohibit otherwise lawful hunting, fishing or trapping
26 activities, including the business operations of any entity engaged in facilitating
27 lawful hunting or fishing conducted on state or other lands and waters unless the
28 suspension, restriction or prohibition is consistent with travel restrictions
29 applicable to the general public as a whole, or, for restrictions on state lands or
30 waters, restrictions apply equally to all travel or public access to state lands or
31 waters or, with private hunting or fishing operations, the suspension, restriction or
32 prohibition applies equally to all forms of commerce within the jurisdiction.

33 The provisions of subparagraphs (1) and (2) do not limit the authority of a law
34 enforcement officer to remove a firearm or ammunition from a person pursuant to other
35 lawful authority. A law enforcement officer who is acting in the lawful discharge of
36 the officer's official duties without a warrant may disarm a lawfully detained individual
37 only temporarily and only if the officer reasonably believes it is immediately necessary
38 for the protection of the officer or another individual. Before releasing the detained
39 individual, the law enforcement officer shall return to the individual any seized firearm,
40 ammunition or component of a firearm or ammunition, firearm accessory, ammunition
41 reloading equipment and supplies and any personal weapon other than a firearm taken
42 from the individual, unless the officer takes the individual into physical custody for
43 engaging in suspected criminal activity or for observation pursuant to Title 34-B,

1 section 3862 or seizes the item as evidence pursuant to an investigation of the
2 commission of a crime.

3 **Sec. 4. 25 MRSA §2011, sub-§5, ¶A-3** is enacted to read:

4 A-3. If the Governor declares by executive order a state of emergency, the term of a
5 concealed handgun permit with a scheduled expiration date from 60 days immediately
6 preceding the executive order to during the period of the state of emergency is extended
7 until 120 days after the permit's scheduled expiration date or 90 days after the
8 expiration of the state of emergency, whichever is later. During the period from the
9 scheduled expiration date of the permit to the extended expiration date of the permit
10 under this paragraph:

11 (1) The permit is valid for all purposes under the laws of the State and the permit
12 holder is considered for all purposes under the laws of the State the holder of a
13 valid permit to carry a concealed handgun;

14 (2) The permit remains subject to the revocation and suspension provisions of
15 sections 2005 and 2005-A; and

16 (3) All other conditions and restrictions otherwise applicable to the permit and the
17 permit holder continue to apply.

18 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
19 takes effect when approved.

20 SUMMARY

21 This bill declares that the transport, storage, sale and transfer and other activities
22 involving firearms, ammunition and components and accessories are considered essential
23 businesses and services during a state of emergency declared by the Governor and prohibits
24 the regulation, curtailment, seizure or other actions to restrict otherwise lawfully owned
25 and possessed firearms, ammunition and related components and accessories and related
26 activities during a state of emergency. This bill excepts from the provisions a law
27 enforcement officer's seizing a firearm, ammunition or accessories or components while
28 detaining an individual for suspected criminal activity pursuant to a warrantless arrest. This
29 bill also suspends the expiration date for concealed handgun permits for a state of
30 emergency.