# MAINE STATE LEGISLATURE

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## 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

**Legislative Document** 

No. 1315

H.P. 971

House of Representatives, March 30, 2021

An Act To Protect Firearm Use and Possession Rights during a State of Emergency and Require a Two-thirds Vote by the Legislative Council To Declare or Extend a State of Emergency

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

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.

1	Be it enacted by the People of the State of Maine as follows:
2 3	<b>Sec. 1. 25 MRSA §2011, sub-§5, ¶A,</b> as enacted by PL 2011, c. 626, §1, is repealed.
4	Sec. 2. 25 MRSA §2011, sub-§5, ¶A-1 is enacted to read:
5 6 7 8 9 10 11	A-1. The transport, storage, transfer, sale, import and export, distribution, repair, maintenance and manufacture of and commerce in firearms, ammunition and related accessories and components, shooting ranges and other goods and services directly related to lawful firearm possession, use, storage, maintenance, sale or transfer and training in the use of firearms are life-sustaining essential businesses and services for the purposes of safety and security during a state of emergency and any other statutorily authorized responses to disaster, war, acts of terrorism, riot or civil disorder, public health crises or emergencies of whatever kind or nature.
13	Sec. 3. 25 MRSA §2011, sub-§5, ¶A-2 is enacted to read:
14 15 16 17	A-2. Notwithstanding any provision of law to the contrary, a state agency or political subdivision or any elected or appointed official or employee of the State or political subdivision may not, under any governmental authority or color of law, including any statutorily authorized responses to disaster, war, acts of terrorism or emergency:
18 19	(1) Prohibit, regulate or curtail the otherwise lawful possession, carrying, sale, transportation, transfer, defensive use or other lawful use of any:
20	(a) Firearm, including any component or accessory of a firearm;
21	(b) Ammunition, including any component or accessory of ammunition;
22	(c) Ammunition reloading equipment and supplies; or
23	(d) Personal weapon other than a firearm;
24	(2) Seize, commandeer or confiscate any:
25	(a) Firearm, including any component or accessory of a firearm;
26	(b) Ammunition, including any component or accessory of ammunition;
27	(c) Ammunition reloading equipment and supplies; or
28	(d) Personal weapon other than a firearm;
29 30	(3) Suspend or revoke a permit to carry a concealed handgun issued pursuant to Title 25, chapter 252, except as expressly authorized in that chapter;
31 32 33	(4) Refuse to accept an application for a permit to carry a concealed handgun for which an application has been properly completed pursuant to Title 25, chapter 252;
34 35 36 37 38 39	(5) Close or limit the operating hours of any entity engaged in the lawful sale or servicing of firearms, including components or accessories of firearms, ammunition, including any components or accessories of ammunition, ammunition reloading equipment and supplies or personal weapons other than firearms, unless the closing or limitation of hours applies equally to all forms of commerce within the jurisdiction;

- (6) Close or limit the operating hours of any indoor or outdoor shooting range that 2 is located on state property or other property or any entity engaged in providing 3 firearms safety, firearms training, firearms license qualification or requalification, 4 firearms safety instructor courses or any similar classes, courses or programs;
  - (7) Place restrictions or quantity limitations on an entity regarding the lawful sale or servicing of any:
    - (a) Firearm, including any component or accessory of a firearm;
    - (b) Ammunition, including any component or accessory of ammunition;
    - (c) Ammunition reloading equipment and supplies; or
    - (d) Personal weapon other than a firearm;

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- (8) Require registration of a firearm, ammunition or any component or accessory of a firearm or ammunition; or
- (9) Suspend, restrict or prohibit otherwise lawful hunting, fishing or trapping activities, including the business operations of any entity engaged in facilitating lawful hunting, fishing or trapping conducted on state or other lands and waters, unless the suspension, restriction or prohibition is consistent with travel restrictions applicable to the general public as a whole or, for restrictions on state lands or waters, restrictions apply equally to all travel or public access to state lands or waters or, with private hunting, fishing or trapping operations, the suspension, restriction or prohibition applies equally to all forms of commerce within the jurisdiction.

The provisions of subparagraphs (1) and (2) do not limit the authority of a law enforcement officer to remove a firearm or ammunition from a person pursuant to other lawful authority. A law enforcement officer who is acting in the lawful discharge of the officer's official duties without a warrant may disarm a lawfully detained individual only temporarily and only if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Before releasing the detained individual, the law enforcement officer shall return to the individual any seized firearm, ammunition or component of a firearm or ammunition, firearm accessory, ammunition reloading equipment and supplies and any personal weapon other than a firearm taken from the individual, unless the officer takes the individual into physical custody for engaging in suspected criminal activity or for observation pursuant to Title 34-B, section 3862 or seizes the item as evidence pursuant to an investigation of the commission of a crime.

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

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

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

- (2) The permit remains subject to the revocation and suspension provisions of sections 2005 and 2005-A; and
- (3) All other conditions and restrictions otherwise applicable to the permit and the permit holder continue to apply.
- **Sec. 5. 37-B MRSA §742, sub-§1, ¶A,** as amended by PL 2001, c. 353, §4, is further amended to read:
  - A. Whenever a disaster or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency plans in any or all areas of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation. A proclamation under this paragraph is void without approval by a 2/3 vote of the Legislative Council within 3 calendar days of the declaration.
- **Sec. 6. 37-B MRSA §743, sub-§2,** as enacted by PL 1983, c. 594, §34, is amended to read:
- **2. Limitation.** No A state of emergency may not continue for longer than 30 days unless renewed by the Governor, except that a renewal is void without approval by a 2/3 vote of the Legislative Council within 3 calendar days of the renewal. The Legislature, by joint resolution, may terminate a state of emergency at anytime any time. Thereupon, the Governor shall issue an executive proclamation ending the state of emergency.

#### SUMMARY

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

This bill also makes a proclamation by the Governor declaring a state of emergency in the State or renewing a state of emergency void if it is not approved by a 2/3 vote of the Legislative Council within 3 calendar days of the declaration or renewal.