

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

SAC  
ROS

Rev A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

Date 6/20/23 Report 'A' L D 168 (Filing No H-623)

CRIMINAL JUSTICE AND PUBLIC SAFETY

Reproduced and distributed under the direction of the Clerk of the House

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to HP 109, L D 168, "An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms"

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

'Sec. 1. 15 MRS A §394 is enacted to read

§394. Criminal background checks of firearms buyers

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

A "Buyer" means a person that intends to be the owner of a firearm following a sale, transfer or exchange

B "Family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or any other person related by consanguinity up to the 2nd degree For purposes of this paragraph, "domestic partner" has the same meaning as in Title 1, section 72, subsection 2-C

C "Federally licensed firearms dealer" or "dealer" means a person who is licensed or is required to be licensed as a dealer under 18 United States Code, Section 923

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

E "Law enforcement agency" has the same meaning as in Title 19-A, section 4102, subsection 7

F "Seller" means a person that is the owner of a firearm and intends to no longer be the owner of the firearm following a sale, transfer or exchange

G "Sell, transfer or exchange" or "sale, transfer or exchange" means any transaction in which ownership of a firearm changes

2. Requirement. If neither the seller nor buyer is a federally licensed firearms dealer, the sale, transfer or exchange must be facilitated by a dealer in accordance with this subsection or by a law enforcement agency in accordance with subsection 3

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H P 109, L D 168

1 A If a federally licensed firearms dealer agrees to facilitate the sale, transfer or  
 2 exchange of a firearm pursuant to this subsection, the dealer shall comply with all  
 3 applicable requirements of state and federal laws and regulations and conduct the sale,  
 4 transfer or exchange of the firearm in the same manner as if the dealer were selling the  
 5 firearm from the dealer's own inventory.

6 B A federally licensed firearms dealer that facilitates the sale, transfer or exchange of  
 7 a firearm pursuant to this subsection is not considered the seller for the purposes of this  
 8 section.

9 **3. Background check by law enforcement agency.** If neither the seller nor buyer is  
 10 a federally licensed firearms dealer, the seller may satisfy the requirements of this section  
 11 by obtaining a criminal background check of the buyer through a law enforcement agency  
 12 that agrees to conduct a criminal background check for the purposes of facilitating the sale,  
 13 transfer or exchange.

14 A A law enforcement agency that agrees to conduct a criminal background check of  
 15 a buyer pursuant to this subsection shall conduct the criminal background check in a  
 16 manner that complies with all applicable requirements of state and federal laws and  
 17 regulations.

18 B A law enforcement agency that conducts a criminal background check to facilitate  
 19 a sale, transfer or exchange pursuant to this subsection is not considered the seller for  
 20 the purposes of this section.

21 **4. Exemptions.** The provisions of this section do not apply to a sale, transfer or  
 22 exchange of a firearm between persons who are not federally licensed firearms dealers if

23 A The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section  
 24 478.11 as in effect on November 19, 2019, and the sale, transfer or exchange is between  
 25 collectors of firearms as curios or relics, as defined by 18 United States Code, Section  
 26 921(a)(13) as in effect on June 25, 2022, who are each in possession of a valid collector  
 27 of curios and relics license issued by the United States Department of Justice, Bureau  
 28 of Alcohol, Tobacco, Firearms and Explosives.

29 B The sale, transfer or exchange is of an antique firearm, as defined in 18 United  
 30 States Code, Section 921(a)(16) as in effect on June 25, 2022.

31 C The buyer or seller is a law enforcement agency or the Department of Corrections.

32 D To the extent the buyer or seller is acting within the course of that person's  
 33 employment or official duties, the person is

- 34 (1) A law enforcement officer as defined by Title 17-A, section 2, subsection 17,
- 35 (2) A corrections officer as defined by Title 25, section 2801-A, subsection 2,
- 36 (3) A member of the United States Armed Forces,
- 37 (4) A member of the National Guard,
- 38 (5) A member of the Reserves of the United States Armed Forces,
- 39 (6) A federal law enforcement officer, or

**COMMITTEE AMENDMENT**

1                   (7) A person licensed as a security guard under Title 32, chapter 93 or employed  
2                   by a contract security company or proprietary security organization under Title 32,  
3                   chapter 93, or

4                   E The buyer and seller are family members

5                   5. Violations. A seller who knowingly sells, transfers or exchanges a firearm in  
6                   violation of this section commits a civil violation for which a fine of not more than \$1,000  
7                   may be imposed '

8                   Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
9                   number to read consecutively

10

**SUMMARY**

11                   This amendment, which is one of 2 reports of the committee, makes the following  
12                   changes to the bill

13                   1 It requires that a federally licensed firearms dealer's facilitation of a sale, transfer or  
14                   exchange of a firearm be conducted in the same manner as if the dealer were selling the  
15                   firearm from the dealer's own inventory and in a manner that complies with all applicable  
16                   requirements of state and federal laws and regulations It also provides that a seller may  
17                   satisfy that requirement by obtaining a criminal background check of the buyer through a  
18                   law enforcement agency that agrees to conduct the criminal background check

19                   2 It removes the limitations on the type of transactions to which the bill applies

20                   3 It removes the provision that makes it a Class D crime when a person knowingly  
21                   sells, transfers or exchanges a firearm without conducting a criminal background check and  
22                   has one or more convictions for the same offense The amendment provides that a seller  
23                   who knowingly sells, transfers or exchanges a firearm in violation of the requirements of  
24                   this legislation commits a civil violation for which a fine of not more than \$1,000 may be  
25                   imposed

26

**FISCAL NOTE REQUIRED**

27

(See attached)



# 131st MAINE LEGISLATURE

LD 168

LR 8(02)

## An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

*A (H-623)*

---

### Fiscal Note

Potential federal impact on the state  
Minor cost increase - General Fund  
Minor revenue increase - General Fund  
Minor revenue increase - Other Special Revenue Funds

#### Correctional and Judicial Impact Statements

Establishes civil violations The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts

#### Fiscal Detail and Notes

The bill allows for a private party gun sale to be facilitated by a federally licensed firearms dealer or through a law enforcement background check Firearms background checks are performed by dealers through the FBI's National Instant Criminal Background Check system (NICS) According to the Department of Public Safety, the use of NICS is not allowed for this purpose, therefore the department would be precluded from complying with this bill under federal regulations It is unclear what the federal ramifications would be for noncompliance with federal NICS use