

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)

EIGHTY-THIRD LEGISLATURE

House Document

No. 273

H. P. 929 House of Representatives, Feb. 24, 1927.

Referred to Committee on Judiciary and 1000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Cole of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT Regulating the Sale, Possession and Use of Certain
Firearms, Silencers and Noxious Gases, and Prescribing
Penalties, and Rules of Evidence with Reference Thereto.

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

Section 1. The word "pistol" as used in this act shall in-
2 clude any pistol or revolver, and any shot-gun, rifle or other
3 firearm with over-all length less than twenty-six inches.

The word "machine gun" shall include any firearm which
2 shoots automatically and any firearm which shoots more
3 than twelve shots semi-automatically without reloading.

The word "person" shall include a firm, association or
2 corporation.

The phrase "crime of violence" shall include any of the
2 following crimes or an attempt to commit any of the same,
3 namely, murder, manslaughter, rape, mayhem, assault to do

4 great bodily harm, robbery, larceny, burglary, breaking and
5 entering.

The word "selling" shall include letting on hire, giving,
2 lending and transferring, and the word "purchasing" shall
3 include hiring, accepting and borrowing, and the expres-
4 sions "seller" and "purchaser" shall be construed accord-
5 ingly.

Sect. 2. If any person shall commit or attempt to commit
2 a crime of violence when armed with, or having available
3 any firearm, he shall, in addition to the punishment pro-
4 vided for the crime, be punished by imprisonment for not
5 less than three, nor more than five years; upon a second
6 conviction for a crime of violence so committed, by impris-
7 onment for an additional period of not less than five nor
8 more than ten years; in the case of a third conviction for
9 a crime of violence so committed, by imprisonment for
10 an additional period of not less than ten nor more than fif-
11 teen years; in the case of a fourth or subsequent conviction
12 for a crime of violence so committed, by imprisonment for
13 life, or for an additional period of not less than twenty
14 years.

Sect. 3. In the trial of a person for committing or at-
2 tempting to commit a crime of violence, the fact that he was
3 armed with or had available a pistol without license to
4 carry the same, or was armed with or had available a ma-
5 chine gun, shall be prima facie evidence of his intention to
6 commit said crime of violence.

The presence of a firearm in a vehicle is presumptive evidence of possession by all persons occupying or using the vehicle at the time.

Sect. 4. No person who has been convicted in this state or elsewhere of a crime of violence shall purchase, own, or have in his possession or under his control, a pistol or machine gun. Violation of this section shall be punished by imprisonment for not less than one nor more than five years.

Sect. 5. Every person who manufactures, or who sells at wholesale, pistols or machine guns, shall be registered with the secretary of state, and shall furnish to such state official such particulars as may be prescribed by law for such registration; provided that, if such state official is satisfied that any applicant for such registration cannot be permitted to carry on business as a manufacturer or wholesale dealer in pistols or machine guns without danger to the public safety, he may refuse to register that person.

Such state official shall furnish to every person who is registered under this section, a certificate of registration.

If any person desires to have his name removed from registration, or if such state official is satisfied that any person whose name is registered is no longer carrying on business as such manufacturer or wholesale dealer, or has ceased to have a place of business within the state, or cannot longer be permitted to carry on business as such manufacturer or wholesale dealer without danger to the public

8 safety, he shall, after giving reasonable notice to such man-
9 ufacturer or wholesale dealer, cause the name of such per-
10 son to be removed from registration.

Every manufacturer and wholesale dealer shall keep a
2 detailed record of each pistol and machine gun sold by him.
3 Such record shall include date of sale, name of purchaser,
4 description of arm, and serial number thereof. The in-
5 formation contained in such record shall be available to po-
6 lice and other public officials in the performance of their
7 official duties.

Sect. 6. No retail dealer shall sell or expose for sale, or
2 have in his possession with intent to sell, a pistol without
3 being licensed as hereinafter provided.

The licensing authorities in any city, town or political
2 sub-division in this state, may, in their discretion, grant li-
3 censes in form prescribed by the secretary of state, effective
4 for not more than one year from date of issue, permitting
5 the licensee to sell at retail within the said city or town or
6 political sub-division, pistols, subject to the following con-
7 ditions, for breach of any of which the license shall be
8 subject to forfeiture:

1. The business shall be carried on only in the building
2 or buildings designated in the license.

2. The license or a copy thereof certified by the issuing
2 authority shall be displayed in a conspicuous place on the
3 premises where it can be easily read.

3. No pistol, or imitation thereof, or placard advertising

2 the sale thereof, shall be placed in any window or in any
3 part of said premises where it can be readily seen from the
4 outside.

4. No pistol shall be delivered (a) unless the purchaser
2 shall have obtained a permit to purchase under the provi-
3 sions of section nine; (b) until seven days shall have elapsed
4 after the application for the permit; (c) unless the pur-
5 chaser either is personally known to the seller or shall pre-
6 sent clear evidence of his identity; (d) unless the pistol
7 shall be unloaded and securely wrapped.

5. A true record of every pistol sold shall be made in a
2 book kept for the purpose, the form of which shall be pre-
3 scribed by the secretary of state and shall be personally
4 signed by the person effecting the sale, and shall contain
5 the date of the sale, the calibre, make, model, and manu-
6 facturer's number of the weapon, and the name, address
7 and permit number of the purchaser.

No license to sell at retail shall be granted except as pro-
2 vided in this section.

Violation of any of the provisions of the license shall be
2 deemed a misdemeanor and shall be punished by a fine of
3 not less than one hundred dollars, nor more than one thou-
4 sand dollars, or by imprisonment for not less than three
5 months, nor more than one year, or both.

Sect. 7. Any person who shall knowingly sell to a minor
2 under the age of eighteen years, or to a person not of
3 sound mind, or to a drug addict, or to a person who has

4 been convicted of a crime of violence, a pistol or machine
5 gun, shall be deemed guilty of a misdemeanor and shall be
6 punished by a fine of not less than one hundred dollars, nor
7 more than one thousand dollars, or by imprisonment for
8 not more than one year, or both.

Sect. 8. Any person who loans money secured by mort-
2 gage, deposit or pledge of a pistol shall be punished by a
3 fine of not more than five hundred dollars or by imprison-
4 ment for not more than one year or both.

Sect. 9. No person shall sell a pistol to another person
2 unless the purchaser has first secured a permit to purchase
3 a pistol. No person of good character and who is of good
4 repute in the community in which he lives, and who is not
5 subject to any of the disabilities set forth in other sections
6 of this act, shall be denied a permit to purchase a pistol.
7 The justice of a court or a trial justice, the sheriff of a
8 county or the chief of police of a city or town, shall upon
9 application issue to any person qualified under the provi-
10 sions of this section a permit to purchase a pistol, and the
11 secretary of state shall have concurrent jurisdiction to issue
12 such permit in any case, notwithstanding it has been refused
13 by any other licensing official, if in his opinion the applicant
14 is qualified.

Applications for such permits shall be in form as prescribed
2 by the secretary of state and shall set forth the name, resi-
3 dence, place of business, age, occupation, sex, color and
4 physical description of the applicant, and shall state whether

5 the applicant is a citizen, and whether he has ever been
6 convicted of a crime of violence as defined in this act. Such
7 application shall be signed by the applicant and shall con-
8 tain as references the names and addresses of two reputable
9 citizens personally acquainted with him.

Application blanks shall be obtainable from such state
2 official and from any other officers authorized to grant such
3 permit, and may be obtained from licensed retail dealers.
4 The application, together with a fee of fifty cents, shall be
5 delivered or forwarded to the licensing authority who shall
6 investigate the same, and unless good cause for the denial
7 thereof shall appear, shall grant said permit within seven
8 days from the date of the receipt of the application. The
9 permit shall be in form prescribed by the secretary of state
10 and shall be issued to the applicant in triplicate. The appli-
11 cant shall deliver to the seller the permit in triplicate and
12 the seller shall indorse on the back of each copy the make,
13 model, calibre and serial number of the pistol sold under
14 the permit. One copy shall then be returned to the pur-
15 chaser with the pistol, one copy shall be kept by the seller
16 as a permanent record, and the third copy shall be forward-
17 ed by the seller within three days to the secretary of state.
18 If the permit is not granted, the fee shall be returned to the
19 applicant.

All fees for permits shall be paid to the secretary of state
2 and converted into the state treasury.

A person shall not be restricted as to the number of pistols

2 he may purchase, if he applies for and obtains permits to
3 purchase the same, but only one pistol shall be purchased
4 or delivered on each permit.

Sect. 10. The judge of a court, the chief of police of
2 a city or town, or the sheriff of a county shall, upon the
3 application of any person having a bona fide residence or
4 place of business within the jurisdiction of said licensing
5 authority, or upon the application of any person having a
6 bona fide residence or place of business within the United
7 States and a license to carry a pistol issued by the author-
8 ities of any state or subdivision of the United States, issue
9 a license to such person to carry a pistol within this state
10 for not more than one year from date of issue, if it ap-
11 pears that the applicant is a suitable person to be so li-
12 censed, and that he has good reason to fear an injury to
13 his person or property or has any other proper reason for
14 carrying a pistol. The license shall be in triplicate, in form
15 to be prescribed by the secretary of state and shall bear
16 the name, address, physical description, signature and fin-
17 ger prints of the licensee, and the reason given for desiring
18 a license. The original thereof shall be delivered to the
19 licensee, the duplicate shall within seven days be sent by
20 registered mail to the said state official and the triplicate
21 shall be preserved by the authority issuing said license. The
22 fee for each license originally issued under the provisions
23 of this section shall be two dollars, and for each renewal
24 thereof one dollar, to be paid to the official issuing the per-
25 mit.

Sect. 11. No person shall, without a license therefor is-
2 sued as provided in the preceding section, carry a pistol in
3 any vehicle or concealed on or about his person, except in
4 his dwelling house or place of business or on land possessed
5 by him.

Sect. 12. The provisions of the preceding section shall
2 not apply to marshals, sheriffs, prison or jail wardens, or
3 their deputies, or to other duly appointed law enforcement
4 officers; or to members of the army, navy or marine corps
5 of the United States, or of the National Guard or organ-
6 ized reserves when on duty; or to the regularly enrolled
7 members of any organization by law authorized to purchase
8 or receive such weapons from the United States or this
9 state, provided such members are at, or going to or from,
10 their places of assembly or target practice; or to officers or
11 employees of the United States authorized by law to carry
12 a pistol; or to any person, engaged in the business of man-
13 ufacturing, repairing or dealing in firearms, or the agent
14 or representative of any such person having in his posses-
15 sion, using or carrying, a pistol or ammunition in the usual
16 and ordinary course of such business; or to any person
17 while carrying a pistol unloaded in a wrapper from the
18 place of purchase to his home or place of business, or when
19 moving goods to a new place of abode or business.

Sect. 13. Any person who shall give or cause to be given
2 false information in applying for a permit to purchase or
3 a license to carry a pistol, or in purchasing or otherwise
4 acquiring delivery of a pistol, shall be deemed to be guilty

5 of a felony and shall be subject to the same penalty as is
6 provided for the crime of perjury in this state.

Sect. 14. It shall be unlawful within the state to manu-
2 facture, sell, purchase or possess machine guns except as
3 provided in the following section and in section five of this
4 act. Violation of this section shall be punished by imprison-
5 ment in state's prison for not less than five years.

Sect. 15. The provisions of the preceding section shall
2 not apply to the United States or political subdivisions
3 thereof, or to foreign governments, or to members of the
4 army, navy or marine corps of the United States, or of
5 the National Guard or organized reserves when on duty,
6 or to the Post Office Department of the United States, or
7 to duly appointed law enforcement officers; nor shall the
8 provisions apply to banking institutions established under
9 the laws of this state or the United States, or to public
10 carriers who are engaged in the business of transporting
11 mail, money, securities or other valuables, provided, how-
12 ever, that a permit to possess and use a machine gun is
13 first secured from the secretary of state.

Sect. 16. It shall be unlawful within this state to manu-
2 facture, sell, purchase or possess, except for military or
3 police purposes, any muffler, silencer or device for deaden-
4 ing or muffling the sound of a firearm when discharged.
5 Violation of this section shall make the offender liable upon
6 conviction to imprisonment for not more than six months
7 in jail.

Sect. 17. Any person, except a duly appointed law enforcement officer, or a member of the army, navy, or marine corps of the United States, or of the National Guard or organized reserves when on duty, who possesses, or carries on or about his person or in a vehicle, a bomb or bomb shell, except for blasting or other commercial use, or who, with intent to use the same unlawfully against the person or property of another, possesses or carries any explosive substance, or any noxious liquid, gas or substance, shall be guilty of a felony. Violation of this section shall make the offender liable upon conviction to imprisonment for not more than six months in jail.

Sect. 18. No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same. Violation of this section shall be punished by imprisonment for not less than one year, nor more than five years.

Sect. 19. It shall be unlawful to sell or deliver or offer or expose for sale, or have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper, or other form of written or printed matter, offering to sell or deliver, or containing an offer to sell or deliver within this state any pistol or machine gun in any other manner than as prescribed by this act.

Sect. 20. No property right shall exist in any firearm
2 unlawfully possessed, carried or used, and all such fire-
3 arms are hereby declared to be nuisances and forfeited to
4 the state. When such forfeited firearms shall be taken
5 from any person, they shall be surrendered to the sheriff
6 of the county in which taken or to the head of the police
7 department in cities. The officer to whom they are sur-
8 rendered shall, except upon a certificate of a judge of a
9 court of record or district attorney that the non-destruc-
10 tion thereof is necessary or proper to the ends of justice,
11 proceed to destroy all such firearms at stated intervals of
12 not more than one year. Provided, however, that if any
13 such firearm shall be found to be the property of an inno-
14 cent owner, it shall be returned to such owner if and when
15 no longer needed for evidential purposes.

Sect. 21. In the case of the conviction under this act of
2 a person who is not a citizen of the United States, it shall
3 be the duty of the clerk of the court in which such convic-
4 tion is secured to certify the fact of such conviction to the
5 proper officer of the United States government having su-
6 pervision of the deportation of aliens.

Sect. 22. This act shall not apply to antique pistols un-
2 suitable for use as firearms and possessed as curiosities or
3 ornaments.

Sect. 23. All licenses heretofore issued within this state
2 permitting the sale, purchase or carrying of pistols shall ex-
3 pire ninety days after the passage of this act. Notice of

4 the passage of the act shall be sent by the licensing authori-
5 ties to all holders of such licenses.

Sect. 24. Any person violating any provision of this act
2 for which no penalty is specifically provided herein shall
3 be punishable by a fine of not more than one thousand dol-
4 lars, or by imprisonment for not exceeding two years, or
5 both.

Sect. 25. If any part of this act is for any reason declared
2 void, such invalidity shall not affect the validity of the re-
3 maining portions of this act.

Sect. 26. All acts or parts of acts inconsistent herewith
2 are hereby repealed and the provisions of this act shall be
3 effective and controlling throughout the state, notwithstand-
4 ing the provision of any local law or ordinance.