

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-THIRD LEGISLATURE

House Document

No. 542

H. P. 1240 House of Representatives, March 30, 1927.

Majority Report ought not to pass and Minority Report ought to pass in new draft tabled by Mr. Cole pending acceptance of either, and on motion of Mr. Church the new draft ordered printed.

CLYDE R. CHAPMAN, Clerk.

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
2 include any pistol or revolver, and any shot-gun, rifle or
3 other firearm with over-all length less than twenty-six
4 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, ex-
4 cept small rifles using .22 caliber, rim-fire ammunition.

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 com-
2 mit a crime of violence when armed with, or having avail-
3 able any firearm or other dangerous weapon, he shall, in
4 addition to the punishment provided for the crime, be pun-
5 ished by imprisonment for not less than three, nor more
6 than five years; upon a second conviction for a crime of
7 violence so committed, by imprisonment for an additional
8 period of not less than five nor more than ten years; in
9 the case of a third conviction for a crime of violence so
10 committed, by imprisonment for an additional period of
11 not less than ten nor more than fifteen years; in the case
12 of a fourth or subsequent conviction for a crime of violence

13 so committed, by imprisonment for life, or for an additional
14 period of not less than twenty 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
3 was 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 evi-
2 dence of possession by all persons occupying or using the
3 vehicle at the time.

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

Sect. 5. Every person who manufactures, or who sells at
2 wholesale, pistols or machine guns, shall be registered with
3 the secretary of state, and shall furnish to such state official
4 such particulars as may be prescribed by law for such reg-
5 istration; provided that, if such state official is satisfied that
6 any applicant for such registration cannot be permitted to
7 carry on business as a manufacturer or wholesale dealer
8 in pistols or machine guns without danger to the public
9 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 safety, he shall, after giving reasonable notice to such manufacturer or wholesale dealer, cause the name of such person to be removed from registration.

Every manufacturer and wholesale dealer shall keep a detailed record of each pistol and machine gun sold by him. Such record shall include date of sale, name of purchaser, description of arm, and serial number thereof. The information contained in such record shall be available to police and other public officials in the performance of their official duties.

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

The municipal officers of any city, town or organized plantation in this state, may, in their discretion, grant licenses in form prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city, town or organ-

6 ized plantation, pistols, subject to the following conditions,
7 for breach of any of which the license shall be subject to
8 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 or revolver shall be delivered—

(a) If the seller has reasonable cause to believe that the
2 purchaser has been convicted of a crime of violence; nor

(b) Unless the purchaser is either personally known to
2 the seller or shall present clear evidence of his identity; nor

(c) On the day of the application for the purchase; nor

(d) Unless the same shall be unloaded and securely
2 wrapped.

5. A true record, in triplicate, shall be made of every
2 pistol or revolver sold, said record to be made in a book
3 kept for the purpose, the form of which shall be prescribed
4 by the secretary of state, and shall be personally signed by
5 the purchaser and by the person effecting the sale, each in
6 the presence of the other, and shall contain the date of sale,
7 the caliber, make, model and manufacturer's number of the

8 weapon, the name, address, occupation, color and place of
9 birth of the purchaser, and a statement signed by the buyer
10 that he has never been convicted of a crime of violence.
11 One copy of said record shall within seven days be for-
12 warded by registered mail to the secretary of state and one
13 copy thereof to the chief of police of a city or the munici-
14 pal officers of a town or plantation of which the seller is
15 a resident, and the other copy retained for six years.

No license to sell at retail shall be granted to anyone ex-
2 cept as provided 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 sound
3 mind, or to a drug addict, or to a person who has been con-
4 victed of a crime of violence, a pistol or machine gun, shall
5 be deemed guilty of a misdemeanor and shall be punished
6 by a fine of not less than one hundred dollars, nor more
7 than one thousand dollars, or by imprisonment for not more
8 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.

Sec. 9. The chief of police of a city, the selectmen of a
2 town and the assessors of a plantation shall, upon the ap-
3 plication 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 State and a license to carry a pistol issued by the authori-
8 ties 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 appears
11 that the applicant is a suitable person to be so licensed, that
12 he desires to use a pistol for hunting purposes and for tar-
13 get shooting, or that he has good reason to fear an injury
14 to his person or property, or that he has any other proper
15 reason for carrying a pistol. No person of good character
16 who is of good repute in the community where he lives, and
17 who is not subject to any of the disabilities set forth in this
18 act shall be denied a license to carry a pistol. Except in
19 cities a sheriff shall have concurrent authority to issue such
20 license within the county where he holds office. The sec-
21 retary of state shall have concurrent authority to issue such
22 license in any case, notwithstanding it has been refused by
23 any other licensing official, if in his opinion the applicant is
24 qualified.

Application for such license 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, the reason for desir-
5 ing a license, whether the applicant is a citizen and whether
6 he has ever been convicted of a crime of violence as de-
7 fined in this act. Such application shall be signed by the
8 applicant and shall contain as references the names and ad-
9 dresses of two reputable citizens personally acquainted with
10 him.

The license certificate shall be in triplicate, in form to be
2 prescribed by the secretary of state and shall bear the name,
3 address, physical description and signature of the licensee,
4 and the reason given for desiring a license. The original
5 thereof shall be delivered to the licensee, the duplicate shall
6 within seven days be sent by registered mail to the secre-
7 tary of state and the triplicate shall be preserved by the
8 person issuing the license. The fee for each license shall
9 be one dollar, to be paid to the official issuing the license
10 certificate.

Sect. 10. 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, or unless he is a bona fide holder of a valid non-
6 resident fishing or hunting license issued within this state.
7 A person coming to this state who holds a valid license to
8 carry a pistol in another state shall have a reasonable time
9 in which to procure a non-resident fishing or hunting license
10 or the license prescribed in section nine.

Sect. 11. The provisions of the preceding section shall
2 not apply to members of police departments, sheriffs and
3 their deputies, prison and jail wardens, keepers, deputies
4 and guards, or to other duly appointed law enforcement offi-
5 cers; or to members of the army, navy or marine corps of
6 the United States, or of the National Guard and organized
7 reserves when on duty and when at, or going to or from,
8 target ranges and galleries which they are authorized to use
9 for pistol practice as a part of their military training,
10 whether in uniform or not; or to members of clubs affiliated
11 with the National Rifle Association or individual members
12 of the National Rifle Association when carrying their au-
13 thenticated membership cards, provided such members are
14 at, or going to or from their places of assembly or target
15 practice; or to officers or employees of the United States
16 authorized by law to carry a pistol; or to any person, en-
17 gaged in the business of manufacturing, repairing or deal-
18 ing in firearms, or the agent or representative of any such
19 person having in his possession, using or carrying, a pistol
20 or ammunition in the usual and ordinary course of such
21 business; or to any person while carrying a pistol unloaded
22 in a wrapper from the place of purchase to his home or
23 place of business, or when moving good to a new place of
24 abode or business.

Sect. 12. Any person who shall give or cause to be given
2 false information in applying for a license to carry a pistol,
3 or in purchasing or otherwise acquiring delivery of a pistol,

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

Sect. 13. 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. 14. The provisions of the preceding section shall not
2 apply to the United States or political subdivisions thereof,
3 or to foreign governments, or to members of the army, navy
4 or marine corps of the United States, or of the National
5 Guard or organized reserves when on duty, or to the Post
6 Office Department of the United States, or to duly appointed
7 law enforcement officers; nor shall the provisions apply to
8 banking institutions established under the laws of this state
9 or the United States, or to public carriers who are engaged
10 in the business of transporting mail, money, securities or
11 other valuables, provided, however, that a permit to possess
12 and use a machine gun is first secured from the secretary
13 of state.

Sect. 15. 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 deadening
4 or muffling the sound of a firearm when discharged. Viola-
5 tion of this section shall make the offender liable upon con-

6 viction to imprisonment for not more than six months in
7 jail.

Sect. 16. Any person, except a duly appointed law en-
2 forcement officer, or a member of the army, navy, or marine
3 corps of the United States, or of the National Guard or
4 organized reserves or a civilian employee of the Adjutant
5 General's Department, who possesses, or carries on or about
6 his person or in a vehicle, a bomb or bomb shell, except for
7 blasting or other commercial use, or who, with intent to use
8 the same unlawfully against the person or property of an-
9 other, possesses or carries any explosive substance, or any
10 noxious liquid, gas or substance, shall be guilty of a felony.
11 Violation of this section shall make the offender liable upon
12 conviction to imprisonment for not more than five years.

Sect. 17. No person shall change, alter, remove, or oblit-
2 erate the name of the maker, model, manufacturer's number,
3 or other mark of identification on any pistol. Possession of
4 any pistol upon which any such mark shall have been
5 changed, altered, removed or obliterated, shall be prima
6 facie evidence that the possessor has changed, altered, re-
7 moved or obliterated the same. Violation of this section
8 shall be punished by imprisonment for not less than one
9 year, nor more than five years.

Sect. 18. It shall be unlawful to sell or deliver or offer
2 or expose for sale, or have in possession for the purpose of
3 sale, any book, pamphlet, circular, magazine, newspaper, or
4 other form of written or printed matter, offering to sell or

5 deliver, or containing an offer to sell or deliver with this
6 state any pistol or machine gun in any other manner than
7 as prescribed by this act.

Sect. 19. No property right shall exist in any firearm un-
2 lawfully possessed, carried or used, and all such firearms
3 are hereby declared to be nuisances and forfeited to the state.
4 When such forfeited firearms shall be taken from any per-
5 son, they shall be surrendered to the sheriff of the county
6 in which taken or to the head of the police department in
7 cities. The officer to whom they are surrendered shall, ex-
8 cept upon a certificate of a judge of a court of record or
9 district attorney that the non-destruction thereof is necessary
10 or proper to the ends of justice, proceed to destroy all such
11 firearms at stated intervals of not more than one year.
12 Provided, however, that if any such firearm shall be found
13 to be the property of an innocent owner, it shall be returned
14 to such owner if and when no longer needed for evidential
15 purposes.

Sect. 20. In the case of the conviction under this act of a
2 person who is not a citizen of the United States, it shall be
3 the duty of the clerk of the court in which such conviction
4 is secured to certify the fact of such conviction to the proper
5 officer of the United States government having supervision
6 of the deportation of aliens.

Sect. 21. This act shall not apply to antique pistols un-
2 suitable for use as firearms and possessed as curiosities or
3 ornaments.

Sect. 22. All licenses heretofore issued within this state
2 permitting the carrying of pistols shall expire when this act
3 becomes effective. Notice of the passage of the act shall
4 be sent by the licensing authorities to all holders of such
5 licenses.

Sect. 23. Any person violating any provision of this act
2 for which no penalty is specifically provided herein shall be
3 punishable by a fine of not more than one thousand dollars,
4 or by imprisonment for not exceeding two years, or both.

Sect. 24. If any part of this act is for any reason declared
2 void, such invalidity shall not effect the validity of the re-
3 maining portions of this act.

Sect. 25. 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.