

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2015

governing body of the alternative organizational structure.

See title page for effective date.

CHAPTER 287

H.P. 413 - L.D. 600

An Act To Prohibit a Person Convicted of a Crime of Domestic Violence from Possessing a Firearm for a Period of 5 Years and To Better Align Maine Law with Federal Law Regarding Persons Prohibited from Possessing Firearms

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

Sec. 1. 15 MRSA §393, sub-§1, ¶D, as amended by PL 2007, c. 670, §5, is further amended to read:

D. Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of that person, or from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:

- (1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or
- (2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury; or

Sec. 2. 15 MRSA §393, sub-§1, ¶E, as amended by PL 2009, c. 651, §1, is further amended to read:

- E. Has been:
 - (1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection 4-A, paragraphs A to C;

- (2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or
- (3) Found not competent to stand trial with respect to a criminal charge;

Sec. 3. 15 MRSA §393, sub-§1, ¶¶F to J are enacted to read:

F. Is a fugitive from justice. For the purposes of this paragraph, "fugitive from justice" has the same meaning as in section 201, subsection 4;

G. Is an unlawful user of or is addicted to any controlled substance and as a result is prohibited from possession of a firearm under 18 United States Code, Section 922(g)(3);

H. Is an alien who is illegally or unlawfully in the United States or who was admitted under a non-immigrant visa and who is prohibited from possession of a firearm under 18 United States Code, Section 922(g)(5);

I. Has been discharged from the United States Armed Forces under dishonorable conditions; or

J. Has, having been a citizen of the United States, renounced that person's citizenship.

Sec. 4. 15 MRSA §393, sub-§1-A, as amended by PL 2007, c. 194, §2, is further amended to read:

1-A. Limited prohibition for nonviolent juvenile offenses. A person who has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under subsection 1, paragraph A-1 or subsection 1-B, paragraph A but is not an adjudication under subsection 1, paragraph C or an adjudication under subsection 1-B, paragraph B in which bodily injury to another person was threatened or resulted may not own or have in that person's possession or control a firearm for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later.

Sec. 5. 15 MRSA §393, sub-§1-B is enacted to read:

1-B. Prohibition for domestic violence offenses. A person may not own, possess or have under that person's control a firearm if that person:

A. Has been convicted of committing or found not criminally responsible by reason of insanity of committing;

- (1) A Class D crime in this State in violation of Title 17-A, section 207-A, 209-A, 210-B, 210-C or 211-A; or

(2) A crime under the laws of the United States or any other state that in accordance with the laws of that jurisdiction is elementally substantially similar to a crime in subparagraph (1); or

B. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under this subsection.

Except as provided in subsection 1-A, the prohibition created by this subsection for a conviction or adjudication of an offense listed in paragraph A or B expires 5 years from the date the person is finally discharged from the sentence imposed as a result of the conviction or adjudication if that person has no subsequent criminal convictions during that 5-year period. If a person is convicted of a subsequent crime within the 5-year period, the 5-year period starts anew from the date of the subsequent conviction. In the case of a deferred disposition, the 5-year period begins at the start of the deferred disposition period.

For the purposes of this subsection, a person is deemed to have been convicted or adjudicated upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

The provisions of this subsection apply only to a person convicted, adjudicated or placed on deferred disposition on or after the effective date of this subsection.

See title page for effective date.

CHAPTER 288

H.P. 290 - L.D. 423

**An Act To Require
Child-resistant Packaging for
Nicotine Liquid Containers**

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

Sec. 1. 22 MRSA §1560-B is enacted to read:

§1560-B. Liquid nicotine

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

A. "Child-resistant packaging" means packaging meeting the specifications in 16 Code of Federal Regulations, Section 1700.15(b) (2015) and tested by the method described in 16 Code of Federal Regulations, Section 1700.20 (2015).

B. "Electronic nicotine delivery device" means any noncombustible device containing or delivering nicotine or any other substance intended for human consumption that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means and that may be used to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen. "Electronic nicotine delivery device" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

C. "Nicotine liquid container" means a container used to hold a liquid, gel or other substance containing nicotine that is sold, marketed or intended for use as or with an electronic nicotine delivery device. "Nicotine liquid container" does not include a cartridge or other container that contains a liquid or other substance containing nicotine and is sold, marketed or intended for use as long as the cartridge or other container is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

2. Prohibition. Beginning January 1, 2016, a person may not sell, furnish, give away or offer to sell, furnish or give away a nicotine liquid container unless the container is child-resistant packaging.

3. Penalties. This subsection applies to violations of subsection 2.

A. A person who violates subsection 2 commits a civil violation for which a fine of \$500 may be adjudged.

B. A person who violates subsection 2 after having previously violated subsection 2 commits a civil violation for which a fine of \$1,000 may be adjudged.

C. A person who violates subsection 2 after having previously violated subsection 2 more than once commits a civil violation for which a fine of \$5,000 may be adjudged.