

## CHAPTER 252-A

### FIREARMS REGULATION

#### §2011. State preemption

**1. Preemption.** The State intends to occupy and preempt the entire field of legislation concerning the regulation of firearms, components, ammunition and supplies. Except as provided in subsection 3, any existing or future order, ordinance, rule or regulation in this field of any political subdivision of the State is void.

[PL 1989, c. 359 (NEW).]

**2. Regulation restricted.** Except as provided in subsection 3, no political subdivision of the State, including, but not limited to, municipalities, counties, townships and village corporations, may adopt any order, ordinance, rule or regulation concerning the sale, purchase, purchase delay, transfer, ownership, use, possession, bearing, transportation, licensing, permitting, registration, taxation or any other matter pertaining to firearms, components, ammunition or supplies.

[PL 1989, c. 359 (NEW).]

**3. Exception.** This section does not prohibit an order, ordinance, rule or regulation of any political subdivision which, with the exception of appropriate civil penalty provisions, conforms exactly with any applicable provision of state law or which regulates the discharge of firearms within a jurisdiction.

[PL 1989, c. 359 (NEW).]

**4. Law enforcement agency.** Nothing in this section limits the power of any law enforcement agency to regulate the type and use of firearms issued or authorized by that agency for use by its employees. For the purposes of this section "law enforcement agency" has the same meaning as set forth in section 3701.

[PL 1989, c. 502, Pt. D, §19 (NEW).]

**5. Restrictions on firearms and ammunition prohibited during state of emergency.** The provisions of this subsection apply to restrictions on firearms and ammunition during a state of emergency, as declared by the Governor pursuant to Title 37-B, section 742, subsection 1.

A. During a state of emergency, notwithstanding any provision of law to the contrary, a person acting on behalf or under the authority of the State or a political subdivision of the State may not:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition. The provisions of this paragraph regarding the lawful transfer of a firearm or ammunition do not apply to the commercial sale of a firearm or ammunition if an authorized person has ordered an evacuation or general closure of businesses in the area of the business engaged in the sale of firearms or ammunition;

(2) Seize or confiscate, or authorize the seizure or confiscation of, an otherwise lawfully possessed firearm or ammunition unless the person acting on behalf of or under the authority of the State is:

- (a) Acting in self-defense against an assault;
- (b) Defending another person from an assault;
- (c) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or
- (d) Seizing or confiscating the firearm or ammunition as evidence of a crime; or

(3) Require registration of a firearm or ammunition for which registration is not otherwise required by state law. [PL 2011, c. 626, §1 (NEW).]

B. An individual aggrieved by a violation of this subsection may seek relief in an action at law or in equity for redress against any person who subjects that individual, or causes that individual to be subjected, to an action prohibited by this subsection. [PL 2011, c. 626, §1 (NEW).]

C. In addition to any other remedy at law or in equity, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this subsection may bring an action for the return of the firearm or ammunition in the Superior Court of the county in which that individual resides or in which the firearm or ammunition is located. [PL 2011, c. 626, §1 (NEW).]

D. In an action or proceeding to enforce this subsection, the court shall award a prevailing plaintiff costs and reasonable attorney's fees. [PL 2011, c. 626, §1 (NEW).]

[PL 2011, c. 626, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 359 (NEW). PL 1989, c. 502, §D19 (AMD). PL 2011, c. 626, §1 (AMD).

#### §2012. Sale of firearms to include safety brochure

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

A. "Basic firearm safety brochure" means a brochure, produced by a national, nonprofit membership organization that provides a comprehensive voluntary safety program including the training of people in the safe handling and use of firearms or by any other organization, that contains the following information relating to firearms:

- (1) Rules for safe handling, storage and use of firearms;
- (2) Nomenclature and descriptions of various types of firearms;
- (3) Responsibilities of firearm ownership; and
- (4) The following information developed by the Department of Public Safety:
  - (a) A list of locations where handguns are prohibited; and
  - (b) Information concerning the use of handguns for self-defense. [PL 2015, c. 327, §6 (AMD).]

B. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A. [PL 1991, c. 127 (NEW).]

C. "Firearm dealer" means a person who is licensed as a dealer under 18 United States Code, Section 923, or who is required to be licensed as a dealer under that section. [PL 1991, c. 127 (NEW).]

[PL 2015, c. 327, §6 (AMD).]

**2. Requirement.** A firearm dealer must:

A. Include a basic firearm safety brochure with every firearm sold at retail in this State, except that the brochure need not be supplied by the firearm dealer if the firearm manufacturer provides a basic firearm safety brochure with the firearm. The dealer may collect a charge for the brochure, which may not be greater than the dealer's cost to obtain the brochure; [PL 1991, c. 127 (NEW).]

B. Offer to demonstrate to the purchaser the use of a trigger locking device; and [PL 1991, c. 127 (NEW).]

C. Post in a conspicuous place information relating to the availability of known local voluntary firearm safety programs. [PL 1991, c. 127 (NEW).]

[PL 1991, c. 127 (NEW).]

**3. No liability.** Organizations that produce basic firearm safety brochures for distribution to firearm dealers for subsequent distribution to purchasers of firearms and firearm dealers are not liable for injuries resulting from the accidental discharge of nondefective firearms purchased from any dealer. [PL 1991, c. 127 (NEW).]

#### SECTION HISTORY

PL 1991, c. 127 (NEW). PL 2015, c. 327, §6 (AMD).

#### §2013. Chief law enforcement officer's certification; certain firearms

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

A. "Certification" means the participation and assent of a chief law enforcement officer necessary under federal law for the approval of an application to transfer or make a firearm. [PL 2015, c. 262, §3 (NEW).]

B. "Chief law enforcement officer" means an official or the official's designee who the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives or successor agency identifies as eligible to provide certification. [PL 2015, c. 262, §3 (NEW).]

C. "Firearm" has the same meaning as in the National Firearms Act, 26 United States Code, Section 5845(a). [PL 2015, c. 262, §3 (NEW).]

[PL 2015, c. 262, §3 (NEW).]

**2. Chief law enforcement officer's certification.** Within 15 days of receipt of an application for certification, the chief law enforcement officer shall provide the certification unless the chief law enforcement officer has information that prevents the chief law enforcement officer from providing the certification.

A. If the chief law enforcement officer denies an application for certification under this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial, which may not be based upon a generalized objection to a private person's possessing, making or transferring a firearm or to a certain type of firearm that is otherwise lawful. [PL 2015, c. 262, §3 (NEW).]

B. The denial of an application for certification or a failure or refusal to provide a certification in accordance with this section by a chief law enforcement officer may be appealed by an applicant in the following manner:

(1) If the chief law enforcement officer is employed by a state agency, the denial may be appealed pursuant to Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C; and

(2) If the chief law enforcement officer is not employed by a state agency, the denial may be appealed pursuant to the Maine Rules of Civil Procedure, Rule 80B. [PL 2015, c. 262, §3 (NEW).]

[PL 2015, c. 262, §3 (NEW).]

**3. Criminal history record check; search of premises.** In making a certification required by subsection 2, a chief law enforcement officer may require the applicant to provide only such information as required by federal or state law to identify the applicant and conduct a criminal history record check or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.

[PL 2015, c. 262, §3 (NEW).]

#### SECTION HISTORY

PL 2015, c. 262, §3 (NEW).

### §2014. Government firearms or firearms owners registry prohibited

Notwithstanding any other provision of law to the contrary, a government agency of this State or a political subdivision of this State may not keep or cause to be kept a comprehensive registry of privately owned firearms and the owners of those firearms within its jurisdiction. [PL 2017, c. 175, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 175, §1 (NEW).

### §2015. Gun shop project

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

A. "Dangerous or deadly weapon" has the same meaning as "dangerous weapon" in Title 17-A, section 2, subsection 9, paragraph C. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

B. "Department" means the Department of Public Safety. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

C. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

D. "Gun shop" means a business located in the State that sells firearms, dangerous or deadly weapons or related components such as ammunition. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

E. "Gun shop project" means a project to develop, create and distribute suicide prevention educational materials. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

[PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

**2. Administration of gun shop project.** The department shall administer a gun shop project. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

**3. Development and creation of educational materials; online training.** In administering a gun shop project under this section, the department shall contract with a statewide organization with expertise in mental health for the development and creation of suicide prevention educational materials, including an online training course.

A. Educational materials under this subsection must include but are not limited to information on:

(1) Understanding and recognizing the various clinical signs, symptoms and indicators of suicide risk; and

(2) Available suicide prevention resources. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

B. In developing and creating educational materials under this subsection, the contracted statewide organization must refer to the following:

(1) Gun shop projects in other states;

(2) Programs created or offered by organizations in the dangerous or deadly weapon industry; and

(3) Other projects or organizations that the department determines appropriate. [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

C. Educational materials under this subsection must be created as written materials, such as pamphlets, signs, posters, tip sheets or other media, and as an online training course for firearm

dealers licensed as dealers under 18 United States Code, Section 923(a)(3) and gun shop customers.  
 [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]  
 [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

**4. Distribution of gun shop project educational materials.** The department shall ensure that the written educational materials and online training course created under subsection 3 are available on the department's publicly accessible website.  
 [PL 2023, c. 643, Pt. HHHH, §1 (NEW).]

**REVISOR'S NOTE:** §2015. Waiting period after sale of firearm (As enacted by PL 2023, c. 678, §1 is REALLOCATED TO TITLE 25, SECTION 2016)

## SECTION HISTORY

PL 2023, c. 643, Pt. HHHH, §1 (NEW).

### §2016. Waiting period after sale of firearm (REALLOCATED FROM TITLE 25, SECTION 2015)

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

A. "Agreement" means an agreement reached between a buyer and a seller for the purchase and the sale of a firearm. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

B. "Buyer" means a person, not including a firearm dealer, who receives possession or ownership of a firearm through an agreement. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

C. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

D. "Firearm dealer" means a person that is licensed as a dealer under 18 United States Code, Section 923(a)(3) or that is required to be licensed as a dealer under that section. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

E. "Seller" means a person or firearm dealer that owns a firearm and that is transferring ownership of the firearm to a buyer pursuant to an agreement. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

[PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

**2. Waiting period.** A seller may not knowingly deliver a firearm to a buyer pursuant to an agreement sooner than 72 hours after the agreement. The 72-hour waiting period must be concurrent with any waiting period imposed by any background check process required by federal or state law.

[PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

**3. Penalty.** This subsection applies to violations of subsection 2.

A. A seller who violates subsection 2 commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

B. A seller who violates subsection 2 after having previously been adjudicated as violating subsection 2 commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 may be adjudged. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]  
 [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

**4. Application.** This section does not apply to:

A. The sale of a firearm if the seller knows that the person to whom the seller is selling the firearm is:

- (1) A law enforcement officer as defined by Title 17-A, section 2, subsection 17;
  - (2) A corrections officer as defined by section 2801-A, subsection 2; or
  - (3) A person who is employed by a contract security company or proprietary security organization as defined by Title 32, section 9403 or a person who is licensed as a private security guard under Title 32, chapter 93; [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]
- B. The sale of a firearm to a firearm dealer; or [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]
- C. The sale of a firearm if:
- (1) The buyer and seller are family members. For purposes of this subparagraph, "family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or person related by consanguinity within the 2nd degree;
  - (2) The transaction is for a firearm that is:
    - (a) A curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11, and the sale, transfer or exchange is between collectors, as defined in 18 United States Code, Section 921(a)(13), who each have in their possession a valid collector of curios and relics license issued by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives; or
    - (b) An antique firearm, as defined in 18 United States Code, Section 921(a)(16); or
  - (3) A background check is not required under federal or state law. [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]
- [PL 2023, c. 678, §1 (NEW); RR 2023, c. 2, Pt. A, §40 (RAL).]

#### SECTION HISTORY

PL 2023, c. 678, §1 (NEW). RR 2023, c. 2, Pt. A, §40 (RAL).

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