

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

‘**Sec. 1. 15 MRSA §§394 and 395** are enacted to read:

§ 394. Sale or transfer of firearms to prohibited persons; strict liability

1. Unlawful sale or transfer; strict liability. A person may not sell or transfer a firearm to a prohibited person as described in section 393.

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of \$500 must be adjudged.

B. A person who violates subsection 1 after having been adjudicated as having committed a civil violation under subsection 1 commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

3. Affirmative defense. It is an affirmative defense to prosecution under this section that the seller or transferor of the firearm requested that a federally licensed firearm dealer complete a computerized background check under the Federal Bureau of Investigation, National Instant Criminal Background Check System, or successor background check system approved by the Attorney General of the United States, on the purchaser or transferee prior to the sale or transfer of the firearm and the background check indicated that the person was not a prohibited person.

§ 395. Sale or transfer of firearms to prohibited persons; culpable mental state

1. Unlawful sale or transfer; culpable mental state. A person is guilty of selling or transferring a firearm to a prohibited person if that person intentionally or knowingly sells or transfers a firearm to a person that the seller or transferor knows or believes is prohibited from possessing a firearm under section 393.

2. Penalty. A violation of this section is a Class D crime.

Sec. 2. 15 MRSA §455, sub-§2, as enacted by PL 2003, c. 452, Pt. H, §1 and affected by Pt. X, §2, is amended to read:

2. False or fictitious name. A person may not give a false or fictitious name to a dealer. A person who violates this subsection commits a civil violation for which a fine of \$50 ~~may~~ \$1,000 must be adjudged.

Sec. 3. Study group to review and make recommendations regarding the "blue paper" process related to persons who are temporarily prohibited from possessing firearms. The Chief of the State Police shall convene a study group to review and make recommendations regarding the so-called blue paper process for persons admitted to a psychiatric hospital on an emergency basis pursuant to the Maine Revised Statutes, Title 34-B, section 3863 who are temporarily prohibited from possessing firearms. The Chief of the State Police shall invite representatives from the following to participate in this review: the Office of the Attorney General, the Department of Health and Human Services, the Maine Prosecutors Association, the Disability Rights Center and any other interested parties that the Chief of the State Police determines appropriate. The Chief of the State Police shall report the recommendations of the study group to the Joint Standing Committee on Criminal Justice and Public Safety by January 30, 2014. Following receipt of the report, the Joint Standing Committee on Criminal Justice and Public Safety may report out a bill to the Second Regular Session of the 126th Legislature.

Sec. 4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 15, chapter 15, in the chapter headnote, the words "possession of firearms by prohibited persons" are amended to read "possession of firearms by prohibited persons and unlawful sale or transfer of firearms to prohibited persons" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.'

SUMMARY

This amendment replaces the bill and is the majority report. The amendment does the following.

1. It creates the civil violation of the sale or transfer of a firearm to a prohibited person and strict liability Class E crime for a 2nd or subsequent offense of selling or transferring a firearm to a prohibited person. The amendment also creates an affirmative defense to prosecution under this new civil violation and crime that the seller or transferor of the firearm requested a federally licensed firearm dealer to conduct a computerized background check under the Federal Bureau of Investigation, National Instant Criminal Background Check System on the purchaser or transferee prior to the sale or transfer of the firearm and the background check indicated that the purchaser or transferee was not a prohibited person.

2. It creates the Class D crime of the sale or transfer of a firearm to a prohibited person. A person is guilty of this crime if that person intentionally or knowingly sells or transfers a firearm to another person that the seller or transferor knows or believes is prohibited from possessing a firearm.

3. It increases the fine from \$50 to \$1,000 for the civil violation of giving a false or fictitious name to a firearms dealer and makes the fine mandatory.

4. It creates a study group to be convened by the Chief of the State Police to review and make recommendations regarding the so-called blue paper process as it relates to persons admitted to a psychiatric hospital on an emergency basis who are temporarily prohibited from possessing firearms. Representatives from the following are invited to participate in this review: the Office of the Attorney General, the Department of Health and Human Services, the Maine Prosecutors Association, the Disability Rights Center and any other interested parties that the Chief of the State Police determines appropriate. The Chief of the State Police is required to report the recommendations of the study group

to the Joint Standing Committee on Criminal Justice and Public Safety by January 30, 2014. Following receipt of the report, the Joint Standing Committee on Criminal Justice and Public Safety may report out a bill to the Second Regular Session of the 126th Legislature.

FISCAL NOTE REQUIRED
(See attached)