1	L.D. 168
2	Date: (Filing No. H-)
3	CRIMINAL JUSTICE AND PUBLIC SAFETY
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	131ST LEGISLATURE
8	FIRST SPECIAL SESSION
9 10	COMMITTEE AMENDMENT "" to H.P. 109, L.D. 168, "An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms"
11 12	Amend the bill by striking out everything after the enacting clause and inserting the following:
13	'Sec. 1. 15 MRSA §394 is enacted to read:
14	§394. Criminal background checks of firearms buyers
15 16	<u>1. Definitions.</u> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
17 18	<u>A.</u> "Buyer" means a person that intends to be the owner of a firearm following a sale, transfer or exchange.
19 20 21 22	B. "Family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or any other person related by consanguinity up to the 2nd degree. For purposes of this paragraph, "domestic partner" has the same meaning as in Title 1, section 72, subsection 2-C.
23 24	C. "Federally licensed firearms dealer" or "dealer" means a person who is licensed or is required to be licensed as a dealer under 18 United States Code, Section 923.
25	D. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.
26 27	E. "Law enforcement agency" has the same meaning as in Title 19-A, section 4102, subsection 7.
28 29	F. "Seller" means a person that is the owner of a firearm and intends to no longer be the owner of the firearm following a sale, transfer or exchange.
30 31	<u>G.</u> "Sell, transfer or exchange" or "sale, transfer or exchange" means any transaction in which ownership of a firearm changes.
32 33 34	2. Requirement. If neither the seller nor buyer is a federally licensed firearms dealer, the sale, transfer or exchange must be facilitated by a dealer in accordance with this subsection or by a law enforcement agency in accordance with subsection 3.

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1 2 3 4 5	A. If a federally licensed firearms dealer agrees to facilitate the sale, transfer or exchange of a firearm pursuant to this subsection, the dealer shall comply with all applicable requirements of state and federal laws and regulations and conduct the sale, transfer or exchange of the firearm in the same manner as if the dealer were selling the firearm from the dealer's own inventory.
6 7 8	B. A federally licensed firearms dealer that facilitates the sale, transfer or exchange of a firearm pursuant to this subsection is not considered the seller for the purposes of this section.
9 10 11 12 13	3. Background check by law enforcement agency. If neither the seller nor buyer is a federally licensed firearms dealer, the seller may satisfy the requirements of this section by obtaining a criminal background check of the buyer through a law enforcement agency that agrees to conduct a criminal background check for the purposes of facilitating the sale, transfer or exchange.
14 15 16 17	A. A law enforcement agency that agrees to conduct a criminal background check of a buyer pursuant to this subsection shall conduct the criminal background check in a manner that complies with all applicable requirements of state and federal laws and regulations.
18 19 20	B. A law enforcement agency that conducts a criminal background check to facilitate a sale, transfer or exchange pursuant to this subsection is not considered the seller for the purposes of this section.
21 22	4. Exemptions. The provisions of this section do not apply to a sale, transfer or exchange of a firearm between persons who are not federally licensed firearms dealers if:
23 24 25 26 27 28	A. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11 as in effect on November 19, 2019, and the sale, transfer or exchange is between collectors of firearms as curios or relics, as defined by 18 United States Code, Section 921(a)(13) as in effect on June 25, 2022, who are each in possession of a valid collector of curios and relics license issued by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;
29 30	<u>B.</u> The sale, transfer or exchange is of an antique firearm, as defined in 18 United States Code, Section 921(a)(16) as in effect on June 25, 2022;
31	C. The buyer or seller is a law enforcement agency or the Department of Corrections;
32 33	D. To the extent the buyer or seller is acting within the course of that person's employment or official duties, the person is:
34	(1) A law enforcement officer as defined by Title 17-A, section 2, subsection 17;
35	(2) A corrections officer as defined by Title 25, section 2801-A, subsection 2;
36	(3) A member of the United States Armed Forces;
37	(4) A member of the National Guard;
38	(5) A member of the Reserves of the United States Armed Forces;
39	(6) A federal law enforcement officer; or

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1 2 3 4 5 6 7 8	 (7) A person licensed as a security guard under Title 32, chapter 93 or employed by a contract security company or proprietary security organization under Title 32, chapter 93; or E. The buyer and seller are family members. 5. Violations. A seller who knowingly sells, transfers or exchanges a firearm in violation of this section commits a civil violation for which a fine of not more than \$1,000 may be imposed.' Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
9	number to read consecutively.
10	SUMMARY
11 12	This amendment, which is one of 2 reports of the committee, makes the following changes to the bill.
13 14 15 16 17 18	1. It requires that a federally licensed firearms dealer's facilitation of a sale, transfer or exchange of a firearm be conducted in the same manner as if the dealer were selling the firearm from the dealer's own inventory and in a manner that complies with all applicable requirements of state and federal laws and regulations. It also provides that a seller may satisfy that requirement by obtaining a criminal background check of the buyer through a law enforcement agency that agrees to conduct the criminal background check.
19	2. It removes the limitations on the type of transactions to which the bill applies.
20 21 22 23 24 25	3. It removes the provision that makes it a Class D crime when a person knowingly sells, transfers or exchanges a firearm without conducting a criminal background check and has one or more convictions for the same offense. The amendment provides that a seller who knowingly sells, transfers or exchanges a firearm in violation of the requirements of this legislation commits a civil violation for which a fine of not more than \$1,000 may be imposed.
26	FISCAL NOTE REQUIRED
27	(See attached)

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