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JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 739, L.D. 1120, “An Act to Promote the Secure Storage of Firearms”

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 15 MRSA §455-A, sub-§1-A, as enacted by PL 1991, c. 450, §2, is amended to read:

1-A. Posting of warnings at gun shows. The warning ~~sign~~ signs as described in ~~subsection~~ subsections 1 and 3 must be posted at all entrances of an organized gun show.'

Amend the bill by striking out all of sections 6 and 7 and inserting the following:

'Sec. 6. 17-A MRSA §554, sub-§4, as enacted by PL 2021, c. 388, §3, is repealed.

Sec. 7. 17-A MRSA §1060 is enacted to read:

§1060. Negligent firearm storage

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

A. "Authorized user" means a person who is 18 years of age or older who is not a prohibited person and who has been authorized by the owner to carry or use the firearm.

B. "Locked container" means a box, case, chest, locker, safe or other similar receptacle equipped with a tamper-resistant lock.

C. "Prohibited person" means a person who is prohibited from possessing a firearm by state or federal law or by court order.

2. Negligent storage of firearm. A person is guilty of negligently storing a firearm if:

A. That person, acting with criminal negligence, stores or leaves on premises that are under the person's control a firearm in a manner that allows a minor to gain access to the firearm without the permission of the minor's parent, foster parent or guardian or in a manner that allows a prohibited person to gain access to the firearm;

B. A minor or prohibited person in fact gains access to the firearm; and

1 C. The minor or prohibited person under paragraph B uses the firearm during the
2 commission of a crime or discharges the firearm.

3 Negligent storage of a firearm is a Class D crime.

4 **3. Affirmative defenses.** It is an affirmative defense to prosecution under this section
5 that:

6 A. The firearm is carried by or under the control of the owner or an authorized user;

7 B. The minor or prohibited person gains access to the firearm as a result of an illegal
8 entry;

9 C. The minor or prohibited person gains access to and uses the firearm during the
10 course of a lawful act of self-defense or defense of another person as described in
11 section 108; or

12 D. The firearm is stored or kept in a locked container or is equipped with a tamper-
13 resistant mechanical lock or other safety device.'

14 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
15 number to read consecutively.

16 SUMMARY

17 This amendment repeals certain provisions of an affirmative defense to prosecution for
18 endangering the welfare of a child and creates the new Class D crime of negligently storing
19 a firearm. A person commits this crime when, acting with criminal negligence, that person
20 stores or leaves on premises that are under the person's control a firearm in a manner that
21 allows a minor to gain access to the firearm without permission or in a manner that allows
22 a prohibited person to gain access to the firearm and a minor or prohibited person in fact
23 gains access to the firearm and uses the firearm during the commission of a crime or
24 discharges the firearm. The amendment also establishes affirmative defenses to this crime.

25 FISCAL NOTE REQUIRED

26 (See attached)