

March 30, 2023

I'm contacting you to voice my opposition to LD 168, An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms.

In 2016, thirteen of the sixteen Maine counties overwhelmingly voted against universal background checks. In 2019, LD 810, An Act to Require Background Checks for All Private Firearm Sales or Transfers Except between Family Members was defeated. Your constituents have clearly spoken they have no interest in universal background checks as written, but here we go again. This bill would forbid a person from transferring a firearm to another person unless facilitated through a licensed firearms dealer. Both parties to the transfer must appear jointly at a willing dealer, who must conduct a background check through the National Instant Criminal Background Check System and comply with all state and federal requirements as though he were selling or transferring a firearm out of his own inventory. While proponents of the bill often refer to it as a background check on sales of firearms, the true effect of LD 168 would be criminalizing otherwise lawful conduct with firearms. The overbroad nature of this legislation would criminalize many transfers that take place as part of hunting, recreational shooting, and even self-defense.

Current federal law requires that dealers of firearms hold a federal firearms license and that any person who acquires a firearm from a dealer passes a background check that includes an inquiry of the National Instant Criminal Background Check System. In addition to the federal requirements on licensed dealers, current federal and state law prohibits anyone from knowingly transferring a firearm to a prohibited person or to a person who is a resident of another state.

LD 168 is being misleadingly described as simply requiring background checks on all sales of firearms, but this is just a small part of what this overbroad piece of legislation would do. This bill would make it a crime, subject to certain exceptions, to simply hand a firearm to another person. Any time gun owners carry out this simple act, they would potentially be exposing themselves to criminal penalties. While the bill does create some exceptions, they're overly complicated and create many traps for unwary gun owners. Accidental violations of these complicated provisions are not excused under this legislation. This legislation is not about public safety and it attacks law-abiding gun owners by placing further burdens on gun ownership and use. For the anti-gun groups and politician's intent on criminalizing the private transfer of firearms, this legislation is just another step in their effort to extinguish America's vibrant and legitimate gun culture.

Proponents of so-called universal background checks claim that this legislation is the most important thing that can be done to stop dangerous people from obtaining firearms. This is a lie. There is no evidence that expanded background checks are useful for this purpose. Just last year, a study by anti-gun researchers confirmed that expanded background checks in California did not reduce gun homicides or gun suicides. This finding is consistent with a review of past studies on expanded background checks by the RAND Corporation that found that evidence of the effect of private-seller background checks on firearm homicides is inconclusive. In 2013, the Department of Justice's National Institute of Justice researched so-called universal background checks and determined that they would not be effective without further harsh firearms restrictions and efforts to combat straw purchasing. Criminals are not deterred by background checks. ATF has reported, the most frequent type of trafficking channel identified in ATF investigations is straw purchasing from federally licensed firearms dealers. A Chicago-area inmate explained this reality to researchers from the University of Chicago in relation to Illinois's stringent firearm licensing regime for a 2015 study, stating, "All they need is one person who got a gun card in the hood and everybody got one." A 2016 Department of Justice survey of state and federal prisoners who had possessed a firearm during the offense for which they were serving found that the most common source of prisoner firearms was off the street/underground market. This was defined as illegal sources of firearms that include markets for stolen goods, middlemen for stolen goods, criminals or criminal enterprises, or individuals or groups involved in sales of illegal drugs. Less than one percent had obtained their firearm from a gun show. Private transfers would have to be processed by federal firearm licensees who could charge high fees or refuse to participate altogether; even people who want to remove firearms from their homes could be hampered from doing so by this bill if they lacked access to a participating FFL.

Every single month in America, law-abiding citizens defend themselves with firearms. If our goal is to reduce gun violence, then we should focus on penalizing criminals, not law-abiding citizens. I urge you to vote LD 168 **Ought Not To Pass**. Thank you for your time and consideration.

James M. Waite
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