

LD 805 An Act To Allow Municipalities To Prohibit Firearms at Voting Places (Breen)

To: Members, Joint Standing Committee on State and Local Government

From: Lynne Caswell, Esq., Legislative Analyst

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<http://legislature.maine.gov/ctl/SLG/04-12-2021?panel=0&time=0&sortdir=0&sortby=2>

SUMMARY

This bill permits municipal officers to prohibit the possession and display of firearms at voting places on election day, with exceptions for firearms secured in locked vehicles and certified law enforcement officers.

TESTIMONY

Sponsor: Senator Breen

Cosponsors: Rep Doudera; Rep Arford; Rep Morales; Rep Melanie Sachs

Proponents: Nicole Palmer; Amy Kuhn; Carol Selsberg; David Fitz; Ethan Strimling; Hilary Shende; Polly Haight Frawley; Susan Kistenmacher; Janice Cooper; Janet Lynch; MMA by Rebecca Graham; Lynn Ellis; Maura Pillsbury; Patricia Kidder; Timothy Shannon;

Opponents: NRA by Lauren LePage; Michael Coleman; Richard Coshow

Written only: Al Cookson, Cambridge; Alain Laverdure, Lewiston; Albert Stussy , Boothbay; Angela Holmes, Westbrook; Arthur Dingley, Auburn; Brett Bulmer, Gardiner; Brian Drinkard, York; Brittany Molda, North Berwick; Bruce Ashmore, Bucksport; Camilla Shannon, Yarmouth; Carol Nelson, Brunswick; Charles Keener; Cherie Wilder , Boothbay; Craig Caffrey, Bowdoinham; Craig Freshley, Brunswick; Craig Turcotte, Skowhegan; Daniel Chase, Levant; Daniel Masessa, Montville; Danny Emerson, South Berwick; David Trahan, SAM-ILA; Deborah Milite, Freeport; Denise Ventura, Palermo; Donna Piccininni, Standish; Edward Moran, Biddeford; Elizabeth Ramage-Healey, Peaks Island; Francis Walker Jr, Bath; Frank Makson, Carmel; Gail Wither; Gary Littlefield, Winterport; Geoff Bickford, Maine Gun Safety Coalition; Gregory Hunnewell, Belgrade Lakes; Holly Littlefield, Winterport; Jamie Robinson, Turner; Janice Vance, Kennebunk; Jerome Watson, Pittston; Jessica Crouse, Gardiner; Jill Shaw, Cape Elizabeth; Jim Perkins, New Vineyard; John Bowen, Boothbay Harbor; John Hennessy, Episcopal Diocese of Maine; Jonathan Martell, Sanford; Joseph Massimino, Raymond; Kate Snyder, City of Portland; Kelly Morley, Dixfield; Kevin Campbell, Dresden; Kevin Gifford, Detroit; Kevin Lundy, Shapleigh; Kim True, Freeport; Laura Lander, Harpswell; Mark Chasse, Auburn; Mark Segar, Freeport; Mark Taylor, Sanford; Martin Jackson, Wiscasset; Martin Malia, Westbrook; Mary Michals, Cape Elizabeth; Michael Parker, Strong; Michelle Peacock, Freeport; Nancy R. Coshow, Bridgton; Paul Carey, Ellsworth; Paula Sutton, Warren; Peter Anzuini, freeport; Poppy Arford, Brunswick; Rebecca Green, Waterville; Rhonda Reed, Winslow; Richard Plourde, Yarmouth; Richard Shapiro, Brunswick; Richard Smith, Beals; Roberta Manter, Fayette; Rodney Farrar, Dixfield; Ryan Adams, Fayette; Shallie Hurd, Waterboro; Simon Cavilla, Skowhegan; Stephen Milks, Auburn, ME; Stephen Miller, Lewiston; Timothy Shannon, Yarmouth; Victoria Wallack, Maine School Management Association; Wendy Lee MacDowell, Palermo; William Harwood, Yarmouth

PRIOR SESSION

In the 129th, the SLG Committee considered LD 1470, An Act to Allow the Prohibition of Weapons at Public Proceedings and Voting Places. It was voted out of committee ONTP (10) / OTP (2).

129 th – LD 1470	130 th – LD 805 <i>as amended by Sponsor</i>
applies to voting places and public proceedings	applies to voting places
prohibits “dangerous weapons”	prohibits “firearms”
excepts “on-duty federal, state or local law enforcement officer”	<ul style="list-style-type: none"> ✓ excepts “law enforcement officer” certified by 25 MRSA ch. 341 who is authorized to carry a firearm ✓ excepts unloaded firearms inside a locked vehicle if stored inside a “closed container, a zipper case or locked firearms rack” ✓ excepts firearms in homes or places of business w/i the 250 feet zone
authorizes municipalities, plantations, counties, quasi-municipal corporations and special purpose districts	authorizes “municipal officers”
<ul style="list-style-type: none"> ✓ enacts Title 1, §415 (FOAA) ✓ amend Title 25, §2011, sub-§3 (state preemption exceptions) 	enacts Title 21-A, §631-B (conduct of elections; local officials’ responsibilities)

INFORMATION / TECHNICAL MATTERS

1. STATE PREEMPTION – 25-A MRSA §2011 (See Attachment A)

“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.”

Sub-§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.

Add language - “Notwithstanding Title 25, section 2011” or add language in §2011 referencing statute enacted by bill.

2. NOISE ORDINANCE / SHOOTING RANGE

Municipalities are permitted to enact noise control ordinances but may not restrict a sport shooting range in existence prior to 9/1/16`

3. “MUNICIPAL OFFICERS” – add reference Title 30-A, §2001 definition (selectmen, councillor, mayor or aldermen)

FISCAL IMPACT - Preliminary (OFPR) – none provided as of this date.

Title 25, §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)].

Title 30-A, §3007. Specific ordinance provisions

5. Firearms and hunting equipment. A municipality shall consult with the Department of Inland Fisheries and Wildlife during the process of the consideration of the adoption or amendment of a firearm discharge ordinance. The area in which the discharge of firearms is prohibited by a firearm discharge ordinance must be described in the ordinance using clearly defined physical boundaries as points of reference. For purposes of this subsection, the term "clearly defined physical boundaries" includes but is not limited to roads, waterways and utility corridors. After January 1, 2000, a municipality that adopts or amends a firearm discharge ordinance shall provide the Commissioner of Inland Fisheries and Wildlife with a copy of the new or amended firearm discharge ordinance and a copy of any maps that show the areas in the municipality affected by the new or amended ordinance within 30 days from the date that the ordinance is enacted or amended. A municipality may not adopt or enforce any ordinance prohibited under Title 12, section 13201. [PL 2013, c. 199, §2 (AMD).]

Title 12 §11209. Discharge of firearm near dwelling or building

1. Prohibition. A person may not:

A. **Unless a relevant municipal ordinance provides otherwise** and except as provided in subsections 3 and 4 and sections 12401 and 12402, discharge a firearm, including a muzzle-loading firearm, or crossbow or cause a projectile to pass as a result of that discharge within 100 yards of a building or residential dwelling without the permission of the owner or, in the owner's absence, of an adult occupant of that building or dwelling authorized to act on behalf of the owner; or [PL 2019, c. 14, §1 (AMD).]

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §631-B is enacted to read:

§631-B. Security of voting places. Municipal officers may prohibit the possession and display of firearms at voting places on election day, except that:

1. Firearm secured in vehicle. This section does not apply to a ~~an unloaded~~ firearm that is stored inside a locked vehicle within 250 feet of the entrance to the voting place ~~if the firearm is stored inside a closed container, a zipped case or a locked firearms rack; and~~

2. Firearm in Home. This section does not apply to a firearm that is on the property of a private residence or place of business that is within 250 feet of the entrance to the voting place; and

23. Law enforcement officer. This section does not apply to a law enforcement officer certified pursuant to Title 25, chapter 341 who is authorized to carry a firearm.