

An Act To Require Criminal Background Checks for Gun Sales

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

Sec. 1. 25 MRSA §2013 is enacted to read:

§2013. Background checks for firearms sales and transfers.

1. DEFINITIONS. As used in this section, the following terms have the following meanings.

A. “Family member” means husband, wife, domestic partner, parent by blood, parent by adoption, child by blood, child by adoption, sibling by blood, sibling by adoption, grandparent, grandchild, niece, nephew, aunt, uncle, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister or intimate partner.

B. “Corrections officer” has the same meaning as in section 2801-A, subsection 2.

C. “Firearm” has the same meaning as in Title 17-A, section 2, subsection 12-A.

D. “Firearm dealer” means a person who holds any federal firearms license under 18 United States Code, Section 923(a).

E. “Intimate partners” means individuals in a dating relationship who are currently living with each other.

F. “Law enforcement agency” has the same meaning as in section 3701, subsection 1.

G. “Law enforcement officer” has the same meaning as in section 3701, subsection 3.

H. “Person” means an individual, corporation, partnership, firm, trust, organization or other legal entity.

I. “Sell” has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph C.

J. “Transfer” has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph A.

K. “Transferee” means a person who receives or intends to receive a firearm in a sale or transfer.

L. “Transferor” means a person who delivers or intends to deliver a firearm in a sale or transfer.

M. “Unlicensed person” means any person who is not a firearm dealer under this section.

2. BACKGROUND CHECKS REQUIRED FOR ALL SALES AND TRANSFERS.

Except as otherwise provided in this section, each sale or transfer of a firearm occurring in whole or in part in Maine shall be preceded by a background check on the transferee. Except as otherwise provided in this section, the requirement applies to all sales and transfers between unlicensed persons. Except as otherwise provided in this section, no person shall sell or transfer a firearm, and no person shall receive a firearm, without complying with the process described in this section.

3. BACKGROUND CHECK CONDUCTED BY FIREARM DEALER. Where both parties to a prospective sale or transfer are unlicensed persons, the transferor and transferee shall meet jointly at a firearm dealer and request that the firearm dealer facilitate the sale or transfer. A firearm dealer who agrees to facilitate a sale or transfer under this section shall process the sale or transfer as though selling or transferring the firearm from its own inventory to the transferee, complying with all requirements of federal and state law that would apply if it were making such a sale or transfer, including all background check and recordkeeping requirements.

4. NO SALE OR TRANSFER IF FAILED BACKGROUND CHECK. Neither the firearm dealer nor the transferor may deliver any firearm to the transferee if the results of the background check indicate that the transferee is disqualified to possess firearms under state or federal law.

5. LEAVING DEALER WITH FIREARM. Notwithstanding any other provisions of law:

A. This section shall not prevent the transferor from removing the firearm from the premises of the firearm dealer while a background check is being conducted, provided that before the transferor sells or transfers the firearm to the transferee, the parties shall return to the firearm dealer, who shall take possession of the firearm in order to complete the sale or transfer; and

B. This section shall not prevent the transferor from removing the firearm from the premises of the firearm dealer if the results of the background check indicate that the transferee is disqualified to possess firearms under state or federal law.

6. REASONABLE FEE. A firearm dealer who agrees to facilitate a sale or transfer pursuant to this section may charge a reasonable fee for services rendered.

7. COMPLETION OF FORMS. The transferor and transferee must each complete, sign and submit all federal and state forms necessary to process the background check and otherwise complete the sale or transfer.

8. EXCEPTIONS. The provisions of this section shall not apply if:

A. Either the transferee or transferor is a firearm dealer;

B. The sale or transfer is between family members;

C. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, section 478.11, and the sale or transfer is between collectors of firearms as curios or relics as defined by 18 United States Code, Section 921(a)(13) who each have in their possession a valid Collector of Curio and Relics License issued by the federal Bureau of Alcohol, Tobacco, Firearms & Explosives;

D. The sale or transfer is of an antique firearm, as defined in 18 United States Code, Section 921(a)(16);

E. The transfer is temporary and is necessary to prevent imminent death or great bodily harm, and:

1) The transfer lasts only as long as necessary to prevent such threat; and

2) The transferor has no reason to believe that the transferee is disqualified to possess firearms under state or federal law and has no reason to believe that the transferee intends to use the firearm in the commission of a crime;

F. Either the transferor or the transferee is a law enforcement agency or the Department of Corrections or is, to the extent the person is acting within the course of his or her employment or official duties, a peace officer, a law enforcement officer, a corrections officer, a member of the Armed Forces of the United States or the National Guard or the Reserves of the United States Armed Forces, a federal law enforcement officer, or a person licensed as or employed by a private security guard under Title 32, chapter 93;

G. The transfer is temporary, the transferor has no reason to believe that the transferee intends to use the firearm in the commission of a crime, and the transfer and the transferee's possession of the firearm takes place exclusively:

1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located or else, if no such authorization is required, operated consistently with local law in such jurisdiction;

2) At a lawfully organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

3) While hunting or trapping if such activity is legal in all places where the transferee possesses the firearm and the transferee holds any license or permit required for such activity; or

4) In the actual presence of the transferor; provided that any transfer allowed by this paragraph is permitted only if the transferor has no reason to believe (a) that the transferee is disqualified to possess firearms under state or federal law or (b) if the transferee is under eighteen years of age and is receiving the firearm under direct supervision and control of an adult, that such adult is disqualified to possess firearms under state or federal law; or

H. The transfer occurs by operation of law upon the death of a person for whom the transferee is an executor, administrator, trustee or personal representative of an estate or a trust created in a will.

9. VIOLATIONS. Any person who knowingly delivers or receives a firearm without complying with this section commits:

A. For a first conviction involving the sale or transfer of one or more firearms, a Class D crime; and

B. For a second or subsequent conviction involving the sale or transfer of one or more firearms, a Class C crime.

SUMMARY

This initiated bill requires a criminal background check before every firearm sale or transfer in the state of Maine. If neither party to a sale or transfer has a federal firearms license, the parties meet at a licensed firearm dealer, who conducts a background check on the transferee and completes the sale or transfer as though selling or transferring from the dealer's own inventory. Exceptions to the background check requirement are made for transfers between family members, while hunting or sport shooting, for emergency self-defense, in the presence of the transferor, and in other circumstances.