



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 999

H.P. 737

House of Representatives, March 10, 2021

An Act Regarding Background Checks for the Sale of Firearms

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.

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

2 **Sec. 1. 15 MRSA §394** is enacted to read:

3 **§394. Background checks of firearms buyers**

4 **1. Requirement.** If neither the seller nor buyer in a transaction involving the transfer
5 or sale of a firearm, as defined in Title 17-A, section 2, subsection 12-A, is a federally
6 licensed firearms dealer, referred to in this section as "the dealer," the transaction must be
7 facilitated by such a dealer. The dealer shall perform a background check of the buyer in
8 the same manner as if the dealer were the seller of the firearm that is the subject of the
9 transaction. If the background check reveals that the buyer is prohibited from purchasing
10 a firearm, the dealer shall notify the seller of that fact. The dealer may charge a reasonable
11 fee for serving as the facilitator.

12 **2. Limitations.** This section applies only to transactions in which:

13 **A.** The seller offers to sell or transfer the firearm at a gun show, event or function:

14 (1) The purpose of which is to facilitate the purchase and sale of firearms;

15 (2) At which 3 or more vendors of firearms offer firearms for sale; and

16 (3) At which 25 or more firearms are offered for sale; or

17 **B.** Pursuant to an advertisement, posting, display or other listing on the Internet or in
18 a publication, the seller offers to sell or transfer, or indicates an intent to sell or transfer,
19 a firearm.

20 **3. Exemptions.** The provisions of this section do not apply to a transfer or sale of a
21 firearm between persons who are not federally licensed firearms dealers if:

22 **A.** The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section
23 478.11, and the transfer or sale is between collectors of firearms as curios or relics, as
24 defined by 18 United States Code, Section 921(a)(13), who both have in their
25 possession a valid collector of curios and relics license issued by the United States
26 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;

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

29 **C.** Either the transferor or seller or the transferee or buyer is a law enforcement agency
30 or the Department of Corrections; or

31 **D.** To the extent the transferor or seller is acting within the course of the transferor's
32 or seller's employment or official duties, the transferor or seller is:

33 (1) A law enforcement officer as defined by Title 17-A, section 2, subsection 17;

34 (2) A corrections officer as defined by Title 25, section 2801-A, subsection 2;

35 (3) A member of the United States Armed Forces;

36 (4) A member of the National Guard;

37 (5) A member of the Reserves of the United States Armed Forces;

38 (6) A federal law enforcement officer; or

1 (7) A person licensed as a security guard under Title 32, chapter 93 or employed
2 by a contract security company or proprietary security organization under Title 32,
3 chapter 93.

4 **4. Violations.** A person who knowingly transfers or sells a firearm in violation of this
5 section commits:

6 A. For a transfer or sale of one or more firearms that is the transferor's or seller's first
7 violation of this section, a civil violation for which a fine of not more than \$1,000 may
8 be imposed; and

9 B. For a transfer or sale of one or more firearms when at the time of the offense the
10 transferor or seller has one or more convictions for a violation of this section or a
11 comparable conviction under the laws of another jurisdiction, a Class D crime.

12 SUMMARY

13 This bill requires background checks of purchasers of firearms for private sales at gun
14 shows or private sales resulting from advertising or marketing subject to certain exceptions.
15 The bill provides that the first offense for knowingly transferring or selling a firearm in
16 violation of the background check required by this bill is a civil violation for which the
17 penalty is a fine of up to \$1,000. The bill designates subsequent offenses as Class D crimes.