

126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1183

H.P. 827

House of Representatives, March 26, 2013

An Act To Prohibit the Enforcement of Federal Law Placing Restrictions on Firearms or Ammunition

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

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative JOHNSON of Eddington. Cosponsored by Representative LIBBY of Waterboro and Representatives: GUERIN of Glenburn, TURNER of Burlington, TYLER of Windham, WILLETTE of Mapleton, WILSON of Augusta, WOOD of Sabattus, Senator: YOUNGBLOOD of Penobscot.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 25 MRSA §2013 is enacted to read:
3	§2013. Firearms; exemption from federal regulation
4	<u>1. Findings.</u> The Legislature finds the following:
5 6	A. The United States Constitution, Amendment II reserves the right of the people to keep and bear arms and provides that this right "shall not be infringed";
7 8 9 10 11	B. The United States Constitution, Amendment X, which states that the "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," defines the total scope of federal power as being that which has been delegated by the people of the several states to the Federal Government in the United States Constitution;
12 13	C. The United States Constitution, Amendment IX guarantees to the people rights not granted in the Constitution and reserves to the people certain rights;
14 15 16 17 18	D. The United States Constitution, Amendments IX and X determine that the regulation of intrastate commerce is vested in the states, particularly if not expressly preempted by federal law. Congress has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearm accessories and ammunition; and
19 20 21	E. The Constitution of Maine, Article I, Section 16 secures for the citizens of Maine the right to keep and bear arms and provides that this right "shall never be questioned."
22 23	2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
24 25 26	<u>A.</u> "Firearm" means any weapon that will or is designed to expel a projectile by the action of an explosive. "Firearm" does not include a fully automatic weapon or any weapon designed to fire a rocket-propelled grenade or any explosive projectile.
27 28 29 30 31	B. "Firearm accessory" means an item that is used in conjunction with or mounted upon a firearm but is not essential to the basic function of a firearm, including, but not limited to, a telescopic or laser sight, magazine, folding or aftermarket stock and grip, speedloader, ammunition carrier, optic for target identification and light for target illumination.
32 33	C. "Government" includes any branch, department or agency of the State or any political subdivision of the State, including a city, town, county or school district.
34 35 36 37	D. "Manufactured" means that a firearm, a firearm accessory or ammunition has been created from basic materials for functional usefulness by any process, including, but not limited to, forging, casting, machining, molding or other processes for working materials.

1 2 3	E. "Public servant" means any officer or employee of government, including legislators and judges, and any person participating, as juror, witness, advisor, consultant or otherwise, in performing a governmental function.
4 5	3. Exemption from federal regulation. A firearm, a firearm accessory or ammunition is not subject to federal regulation in this State if:
6	A. It is owned by a resident of this State and remains within this State; or
7 8 9 10 11 12	B. It is manufactured commercially or privately in this State after October 1, 2009 and remains in this State. The firearm, firearm accessory or ammunition must be clearly stamped "Made in Maine" on a central metallic part. A firearm, a firearm accessory or ammunition that is purchased in this State and is stamped with "Made in Maine" is exempt from registration, background checks and dealer licensing requirements.
13 14 15 16 17 18	A public servant or a person selling a firearm in this State may not enforce or attempt to enforce any act, law, statute, rule, regulation or order of the Federal Government relating to a firearm, a firearm accessory or ammunition that is exempt under this subsection, including any restriction or prohibition on the ownership of a semi-automatic firearm or a magazine or a requirement that a firearm, firearm accessory or ammunition has to be registered in any manner.
19	4. Penalty; defense. The following provisions apply to a violation of this section.
20 21 22 23 24	A. A public servant or an official, agent or employee of the Federal Government who enforces or attempts to enforce any act, law, statute, rule, regulation or order of the Federal Government upon a firearm, a firearm accessory or ammunition that is exempt pursuant to subsection 3 commits a Class C crime and is subject to a sentence of imprisonment of not less than one year.
25 26 27 28	B. The Attorney General may defend a citizen of this State who is prosecuted by the Federal Government for violation of a federal law relating to the manufacture, sale, transfer or possession of a firearm, a firearm accessory or ammunition that is exempt pursuant to subsection 3.
29	SUMMARY
30 31 32 33 34 35 36	This bill exempts from federal regulation firearms, firearm accessories and ammunition that are owned by residents of this State and kept exclusively in this State or that are made in this State and that remain in this State. This bill prohibits the enforcement of any federal act, law, statute, rule, regulation or order that attempts to restrict or prohibit the ownership of a semi-automatic firearm or a magazine or that requires the registration of a firearm, a firearm accessory or ammunition. A violation is a Class C crime, punishable by a minimum of one year in prison.