



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1315

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H.P. 971

House of Representatives, March 30, 2021

**An Act To Protect Firearm Use and Possession Rights during a  
State of Emergency and Require a Two-thirds Vote by the  
Legislative Council To Declare or Extend a State of Emergency**

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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 FAULKINGHAM of Winter Harbor.

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

2 **Sec. 1. 25 MRSA §2011, sub-§5, ¶A**, as enacted by PL 2011, c. 626, §1, is  
3 repealed.

4 **Sec. 2. 25 MRSA §2011, sub-§5, ¶A-1** is enacted to read:

5 A-1. The transport, storage, transfer, sale, import and export, distribution, repair,  
6 maintenance and manufacture of and commerce in firearms, ammunition and related  
7 accessories and components, shooting ranges and other goods and services directly  
8 related to lawful firearm possession, use, storage, maintenance, sale or transfer and  
9 training in the use of firearms are life-sustaining essential businesses and services for  
10 the purposes of safety and security during a state of emergency and any other statutorily  
11 authorized responses to disaster, war, acts of terrorism, riot or civil disorder, public  
12 health crises or emergencies of whatever kind or nature.

13 **Sec. 3. 25 MRSA §2011, sub-§5, ¶A-2** is enacted to read:

14 A-2. Notwithstanding any provision of law to the contrary, a state agency or political  
15 subdivision or any elected or appointed official or employee of the State or political  
16 subdivision may not, under any governmental authority or color of law, including any  
17 statutorily authorized responses to disaster, war, acts of terrorism or emergency:

18 (1) Prohibit, regulate or curtail the otherwise lawful possession, carrying, sale,  
19 transportation, transfer, defensive use or other lawful use of any:

20 (a) Firearm, including any component or accessory of a firearm;

21 (b) Ammunition, including any component or accessory of ammunition;

22 (c) Ammunition reloading equipment and supplies; or

23 (d) Personal weapon other than a firearm;

24 (2) Seize, commandeer or confiscate any:

25 (a) Firearm, including any component or accessory of a firearm;

26 (b) Ammunition, including any component or accessory of ammunition;

27 (c) Ammunition reloading equipment and supplies; or

28 (d) Personal weapon other than a firearm;

29 (3) Suspend or revoke a permit to carry a concealed handgun issued pursuant to  
30 Title 25, chapter 252, except as expressly authorized in that chapter;

31 (4) Refuse to accept an application for a permit to carry a concealed handgun for  
32 which an application has been properly completed pursuant to Title 25, chapter  
33 252;

34 (5) Close or limit the operating hours of any entity engaged in the lawful sale or  
35 servicing of firearms, including components or accessories of firearms,  
36 ammunition, including any components or accessories of ammunition, ammunition  
37 reloading equipment and supplies or personal weapons other than firearms, unless  
38 the closing or limitation of hours applies equally to all forms of commerce within  
39 the jurisdiction;

1 (6) Close or limit the operating hours of any indoor or outdoor shooting range that  
2 is located on state property or other property or any entity engaged in providing  
3 firearms safety, firearms training, firearms license qualification or requalification,  
4 firearms safety instructor courses or any similar classes, courses or programs;

5 (7) Place restrictions or quantity limitations on an entity regarding the lawful sale  
6 or servicing of any:

7 (a) Firearm, including any component or accessory of a firearm;

8 (b) Ammunition, including any component or accessory of ammunition;

9 (c) Ammunition reloading equipment and supplies; or

10 (d) Personal weapon other than a firearm;

11 (8) Require registration of a firearm, ammunition or any component or accessory  
12 of a firearm or ammunition; or

13 (9) Suspend, restrict or prohibit otherwise lawful hunting, fishing or trapping  
14 activities, including the business operations of any entity engaged in facilitating  
15 lawful hunting, fishing or trapping conducted on state or other lands and waters,  
16 unless the suspension, restriction or prohibition is consistent with travel restrictions  
17 applicable to the general public as a whole or, for restrictions on state lands or  
18 waters, restrictions apply equally to all travel or public access to state lands or  
19 waters or, with private hunting, fishing or trapping operations, the suspension,  
20 restriction or prohibition applies equally to all forms of commerce within the  
21 jurisdiction.

22 The provisions of subparagraphs (1) and (2) do not limit the authority of a law  
23 enforcement officer to remove a firearm or ammunition from a person pursuant to other  
24 lawful authority. A law enforcement officer who is acting in the lawful discharge of  
25 the officer's official duties without a warrant may disarm a lawfully detained individual  
26 only temporarily and only if the officer reasonably believes it is immediately necessary  
27 for the protection of the officer or another individual. Before releasing the detained  
28 individual, the law enforcement officer shall return to the individual any seized firearm,  
29 ammunition or component of a firearm or ammunition, firearm accessory, ammunition  
30 reloading equipment and supplies and any personal weapon other than a firearm taken  
31 from the individual, unless the officer takes the individual into physical custody for  
32 engaging in suspected criminal activity or for observation pursuant to Title 34-B,  
33 section 3862 or seizes the item as evidence pursuant to an investigation of the  
34 commission of a crime.

35 **Sec. 4. 25 MRSA §2011, sub-§5, ¶A-3** is enacted to read:

36 A-3. If the Governor declares by executive order a state of emergency, the term of a  
37 concealed handgun permit with a scheduled expiration date from 60 days immediately  
38 preceding the executive order to during the period of the state of emergency is extended  
39 until 120 days after the permit's scheduled expiration date or 90 days after the  
40 expiration of the state of emergency, whichever is later. During the period from the  
41 scheduled expiration date of the permit to the extended expiration date of the permit  
42 under this paragraph:

1 (1) The permit is valid for all purposes under the laws of the State and the permit  
2 holder is considered for all purposes under the laws of the State the holder of a  
3 valid permit to carry a concealed handgun;

4 (2) The permit remains subject to the revocation and suspension provisions of  
5 sections 2005 and 2005-A; and

6 (3) All other conditions and restrictions otherwise applicable to the permit and the  
7 permit holder continue to apply.

8 **Sec. 5. 37-B MRSA §742, sub-§1, ¶A,** as amended by PL 2001, c. 353, §4, is  
9 further amended to read:

10 A. Whenever a disaster or civil emergency exists or appears imminent, the Governor  
11 shall, by oral proclamation, declare a state of emergency in the State or any section of  
12 the State. If the Governor is temporarily absent from the State or is otherwise  
13 unavailable, the next person in the State who would act as Governor if the office of the  
14 Governor were vacant may, by oral proclamation, declare the fact that a civil  
15 emergency exists or appears sufficiently imminent to activate emergency plans in any  
16 or all areas of the State. A written copy of the proclamation must be filed with the  
17 Secretary of State within 24 hours of the oral proclamation. A proclamation under this  
18 paragraph is void without approval by a 2/3 vote of the Legislative Council within 3  
19 calendar days of the declaration.

20 **Sec. 6. 37-B MRSA §743, sub-§2,** as enacted by PL 1983, c. 594, §34, is amended  
21 to read:

22 **2. Limitation.** ~~No~~ A state of emergency may not continue for longer than 30 days  
23 unless renewed by the Governor, except that a renewal is void without approval by a 2/3  
24 vote of the Legislative Council within 3 calendar days of the renewal. The Legislature, by  
25 joint resolution, may terminate a state of emergency at ~~anytime~~ any time. Thereupon, the  
26 Governor shall issue an executive proclamation ending the state of emergency.

## 27 SUMMARY

28 This bill declares that the transport, storage, sale and transfer of and other activities  
29 involving firearms, ammunition and components and accessories are considered essential  
30 businesses and services during a state of emergency declared by the Governor and prohibits  
31 the regulation, curtailment, seizure or other actions to restrict otherwise lawfully owned  
32 and possessed firearms, ammunition and related components and accessories and related  
33 activities during a state of emergency. This bill exempts from the provisions a law  
34 enforcement officer's seizing a firearm, ammunition or accessories or components while  
35 detaining an individual for suspected criminal activity pursuant to a warrantless arrest. This  
36 bill also suspends the expiration date for concealed handgun permits for a state of  
37 emergency.

38 This bill also makes a proclamation by the Governor declaring a state of emergency in  
39 the State or renewing a state of emergency void if it is not approved by a 2/3 vote of the  
40 Legislative Council within 3 calendar days of the declaration or renewal.