

**527.110 Unlawfully providing handgun to juvenile or permitting juvenile to possess handgun.**

(1) A person is guilty of unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun when he:

(a) Intentionally, knowingly, or recklessly provides a handgun, with or without remuneration, in violation of KRS 527.040, 527.100, or 600.020

to any person he knows or has reason to believe is under the age of eighteen (18) years; or

(b) Is the parent or legal guardian of a juvenile and intentionally, knowingly, or recklessly provides a handgun to the juvenile or permits the juvenile to possess a handgun knowing that there is a substantial risk that the juvenile will use a handgun to commit a felony offense; or, with knowledge that the juvenile has been convicted of a crime of violence as defined in KRS 439.

3401 or has been adjudicated a public offender of an offense which would constitute a crime of violence as defined in KRS 439.3401, provides a handgun to that juvenile.

(2) Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun is a Class D felony.

**[Current through 2008 First Extraordinary Session]**

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**Title 14. Criminal Law**

**67.15. Theft of a firearm**

**A.** Theft of a firearm is the misappropriation or taking of a firearm which belongs to another, either without the consent of the other to the misappropriation or taking or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the firearm is essential.

**B.** For purposes of this Section, "firearm" means a shotgun or rifle, or a pistol, revolver, or other handgun.

**C.(1)** For a first offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than two years nor more than ten years, without the benefit of probation, parole, or suspension of sentence and a fine of one thousand dollars.

**(2)** For a second offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than five years nor more than fifteen years, without the benefit of probation, parole, or suspension of sentence and a fine of two thousand dollars.

**(3)** For a third and subsequent offense, the penalty for theft of a firearm shall be imprisonment at hard labor for not less than fifteen years nor more than thirty years, without the benefit of probation, parole, or suspension of sentence and a fine of five thousand dollars.

**69.1. Illegal possession of stolen firearms**

**A.** Illegal possession of stolen firearms is the intentional possessing, procuring, receiving, or concealing of a firearm which has been the subject of any robbery or theft under circumstances which indicate that the offender knew or should have known that the firearm was the subject of a robbery or theft.

**B.** Whoever commits the crime of illegal possession of firearms shall be punished as follows:

**(1)** For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

**(2)** For second and subsequent offenses, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

**91. Unlawful sales of weapons to minors**

**A.** Unlawful sales of weapons to minors is the selling or otherwise delivering for value of any firearm or other instrumentality customarily used as a dangerous weapon to any person under the age of eighteen. Lack of knowledge of the minor's age shall not be a defense.

**B.** Whoever commits the crime of unlawful sales of weapons to minors shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

**95. Illegal carrying of weapons**

**A.** Illegal carrying of weapons is:

**(1)** The intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one's person; or

**(2)** The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien; or

**(3)** The ownership, possession, custody or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime; or

**(4)** The manufacture, ownership, possession, custody or use of any switchblade knife, spring knife or other knife or similar instrument having a blade which may be automatically unfolded or extended from a handle by the manipulation of a button, switch, latch or similar contrivance.

**(5)(a)** The intentional possession or use by any person of a dangerous weapon on a school campus during regular school hours or on a school bus. "School" means any elementary, secondary, high school, or vo-tech school in this state and "campus" means all facilities and property within the boundary of the school property. "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

**(b)** The provisions of this Paragraph shall not apply to:

**(i)** A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.

**(ii)** A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

**(iii)** Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

**B. (1)** Whoever commits the crime of illegal carrying of weapons shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

**(2)** Whoever commits the crime of illegal carrying of weapons with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(13), shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than two years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(13) shall be served consecutively.

**C.** On a second conviction, the offender shall be imprisoned with or without hard labor for not more than five years.

**D.** On third and subsequent convictions, the offender shall be imprisoned with or without hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

**E.** If the offender uses, possesses, or has under his immediate control any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, while committing or attempting to commit a crime of violence or while in the possession of or during the sale or distribution of a controlled dangerous substance, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five nor more than ten years without the benefit of probation, parole, or suspension of sentence. Upon a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than twenty years nor more than thirty years without the benefit of probation, parole, or suspension of sentence.

**F.** The enhanced penalty upon second, third, and subsequent convictions shall not be applicable in cases where more than five years have elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted; the sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

**G. (1)** The provisions of this Section except Paragraph (4) of Subsection A shall not apply to sheriffs and their deputies, state and city police, constables and town marshals, or persons vested with police power when in the actual discharge of official duties. These provisions shall not apply to sheriffs and their deputies and state and city police who are not actually discharging their official duties, provided that such persons are full time, active, and certified by the Council on Peace Officer Standards and Training and have on their persons valid identification as duly commissioned law enforcement officers.

**(2)** The provisions of this Section except Paragraph (4) of Subsection A shall not apply to any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor shall it apply to any enforcement officer of the office of state parks, in the Department of Culture, Recreation and Tourism who is retired from active duty as an enforcement officer, provided that such retired officers have on their persons valid identification as retired law enforcement officers, which identification shall be provided by the entity which employed the officer prior to his or her public retirement. The retired law enforcement officer must be qualified annually in the use of firearms by the Council on Peace

Officer Standards and Training and have proof of such qualification. This exception shall not apply to such officers who are medically retired based upon any mental impairment.

**(3)(a)** The provisions of this Section except Paragraph (4) of Subsection A shall not apply to active or retired reserve or auxiliary law enforcement officers qualified annually by the Council on Peace Officer Standards and Training and who have on their person valid identification as active or retired reserve law or auxiliary municipal police officers. The active or retired reserve or auxiliary municipal police officer shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such certification.

**(b)** For the purposes of this Paragraph, a reserve or auxiliary municipal police officer shall be defined as a volunteer, non-regular, sworn member of a law enforcement agency who serves with or without compensation and has regular police powers while functioning as such agency's representative, and who participates on a regular basis in agency activities including, but not limited to those pertaining to crime prevention or control, and the preservation of the peace and enforcement of the law.

**H.** The provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, and traffic courts, constables, coroners, district attorneys and designated assistant district attorneys, United States Attorneys and Assistant United States Attorneys and investigators, and justices of the peace from possessing and concealing a handgun on their person when the justice or judge, constable, coroner, district attorneys and designated assistant district attorneys, United States Attorneys and Assistant United States Attorneys and investigators, or Justices of the peace are certified by the Council on Peace Officer Standards and Training.

**I.** The provisions of this Section shall not prohibit the carrying of a concealed handgun by a person who is a college or university police officer under the provisions of R.S. 17:1805 and who is carrying a concealed handgun in accordance with the provisions of that statute.

**J.** The provisions of this Section shall not prohibit the ownership of rescue knives by commissioned full-time law enforcement officers. The provisions of this Section shall not prohibit the carrying of rescue knives by commissioned full-time law enforcement officers who are in the actual discharge of their official duties. The provisions of this Section shall not prohibit the sale of rescue knives to commissioned full-time law enforcement officers. The provisions of this Section shall not prohibit the ownership or possession of rescue knives by merchants who own or possess the knives solely as inventory to be offered for sale to commissioned full-time law enforcement officers. As used in this Subsection, a "rescue knife" is a folding knife, which can be readily and easily opened with one hand and which has at least one blade which is designed to be used to free individuals who are trapped by automobile seat belts, or at least one blade which is designed for a similar purpose. No blade of a rescue knife shall exceed five inches in length.

**K. (1)** The provisions of this Section shall not prohibit a retired justice, or judge from the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, and city courts from possessing and concealing a

handgun on their person provided that such retired justice of judge is certified by the Council of Peace Officers and Training and has on their person a valid identification showing proof of their status as a retired justice or judge.

**(2)** The retired justice or judge shall be qualified annually in the use of firearms by the Council of Peace Officers and Training and have proof of such certification. However, this Subsection shall not apply to a retired justice or judge who is medically retired based upon any medical impairment.

**95.1. Possession of firearm or carrying concealed weapon by a person convicted of certain felonies**

**A.** It is unlawful for any person who has been convicted of a crime of violence as defined in R.S. 14:2(13) which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or any violation of the Uniform Controlled Substances Law which is a felony, or any crime which is defined as a sex offense in R.S. 15:541(14.1), or any crime defined as an attempt to commit one of the above enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above enumerated crimes, to possess a firearm or carry a concealed weapon.

**B.** Whoever is found guilty of violating the provisions of this Section shall be imprisoned at hard labor for not less than ten nor more than fifteen years without the benefit of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars.

**C.** Except as otherwise specifically provided, this Section shall not apply to the following cases:

**(1)** The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of certain felonies shall not apply to any person who has not been convicted of any felony for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

**(2)** Upon completion of sentence, probation, parole, or suspension of sentence the convicted felon shall have the right to apply to the sheriff of the parish in which he resides, or in the case of Orleans Parish the superintendent of police, for a permit to possess firearms. The felon shall be entitled to possess the firearm upon the issuing of the permit.

**(3)** The sheriff or superintendent of police, as the case may be, shall immediately notify the Department of Public Safety, in writing, of the issuance of each permit granted under this Section.

**95.1.1. Illegally supplying a felon with a firearm**

**A.** Illegally supplying a felon with a firearm is the intentional giving, selling, donating, providing, lending, delivering, or otherwise transferring a firearm to any person known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

**B.** Whoever commits the crime of illegally supplying a felon with a firearm shall be impris-

oned for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

**95.2. Carrying a firearm, or dangerous weapon, by a student or nonstudent on school property, at school-sponsored functions or firearm-free zone**

**A.** Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

**B.** For purposes of this Section, the following words have the following meanings:

**(1)** "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

**(2)** "Campus" means all facilities and property within the boundary of the school property.

**(3)** "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

**(4)** "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

**C.** The provisions of this Section shall not apply to:

**(1)** A federal, state, or local law enforcement officer in the performance of his official duties.

**(2)** A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

**(3)** Any person having the written permission of the principal.

**(4)** The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence, or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

**(5)** Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.

**(6)** Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.

**(7)** A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.

**(8)** A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.

**D. (1)** Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

**(2)** Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of vio-

lence as defined in R.S. 14:2(13) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(13) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

**E.** Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

**F. (1)** School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

**(2)(a)** If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

**(b)** The confiscated weapon shall be disposed of or destroyed as provided by law.

**(3)** If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

**(4)** If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

**G.** Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph F(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

**95.6. Firearm-free zone; notice; signs; crime; penalties**

**A.** A "firearm-free zone" is an area inclusive of any school campus and within one thousand feet of any such school campus, and within a school bus.

**B.** The provisions of this Section shall not apply to:

**(1)** A federal, state, or local law enforcement building.

**(2)** A military base.

**(3)** A commercial establishment which is permitted by law to have firearms or armed security.

**(4)** Private premises where a firearm is kept pursuant to law.

**(5)** Any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle.

**C.** For purposes of this Section:

**(1)** "School" means any public or private elementary, secondary, high school, or vocational-technical school, college, or university in this state.

**(2)** "School campus" means all facilities and property within the boundary of the school property.

**(3)** "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

**D.** The local governing authority which has jurisdiction over zoning matters in which each firearm-free zone is located shall publish a map clearly indicating the boundaries of each firearm-free zone in accordance with the specifications in Subsection A. The firearm-free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the firearm-free zone is located.

**E.** The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark firearm-free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a firearm-free zone and that such zone extends to one thousand feet from the boundary of school property. The state Department of Education shall assist each approved school with the posting of notice as required in this Subsection.

**F. (1)** It is unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a firearm-free zone as provided in this Section.

**(2)** Whoever violates the provisions of this Subsection shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

**95.7. Possession of or dealing in firearms with obliterated number or mark**

**A.** No person shall intentionally receive, possess, carry, conceal, buy, sell, or transport any firearm from which the serial number or mark of identification has been obliterated.

**B.** This Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

**C.** Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and may be imprisoned for not more than six months.

**95.8. Illegal possession of a handgun by a juvenile**

**A.** It is unlawful for any person who has not attained the age of seventeen years knowingly to possess any handgun on his person. Any person possessing any handgun in violation of this Section commits the offense of illegal possession of a handgun by a juvenile.

**B. (1)** On a first conviction, the offender shall be fined not more than one hundred dollars and

imprisoned for not less than ninety days and not more than six months.

**(2)** On a second conviction, the offender shall be fined not more than five hundred dollars and imprisoned with or without hard labor for not more than two years.

**(3)** On a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

**(4)** A juvenile adjudicated delinquent under this Section, having been previously found guilty or adjudicated delinquent for any crime of violence as defined by R.S. 14:2(13), or attempt or conspiracy to commit any such offense, shall upon a first or subsequent conviction be fined not less than five hundred dollars and not more than one thousand dollars and shall be imprisoned with or without hard labor for not less than six months and not more than five years. At least ninety days shall be served without benefit of probation, parole, or suspension of sentence.

**C.** The provisions of this Section shall not apply to any person under the age of seventeen years who is:

**(1)** Attending a hunter's safety course or a firearms safety course.

**(2)** Engaging in practice in the use of a firearm or target shooting at an established range.

**(3)** Hunting or trapping pursuant to a valid license issued to him pursuant to the laws of this state.

**(4)** Traveling to or from any activity described in Paragraph (1), (2), or (3) of this Subsection while in possession of an unloaded gun.

**(5)** On real property with the permission of his parent or legal guardian and with the permission of the owner or lessee of the property.

**(6)** At such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun.

**(7)** Possessing a handgun with the written permission of such person's parent or legal guardian; provided that such person carries on his person a copy of such written permission.

**D.** For the purposes of this Section "handgun" means a firearm as defined in R.S. 14:37.2, provided however, that the barrel length shall not exceed twelve inches.

**319. Sale of toy pistols prohibited; penalty; exceptions** No person shall sell or offer to sell any toy pistol constructed so as to accommodate blank powder cartridges, blank cartridges, or shells used in firing or discharging toy pistols.

Whoever violates this Section shall be fined not less than ten dollars nor more than fifty dollars, or imprisoned for not more than ten days, or both.

Paper cap pistols and other toy pistols not constructed so as to accommodate blank powder cartridges or shells are not included within the provisions of this Section.

**Title 40. Public Health and Safety**

**Chapter 6. Department of Public Safety**

**1379.3. Statewide permits for concealed handguns; application procedures; definitions**

**A. (1)** Notwithstanding any other provision of law to the contrary, the deputy secretary of public safety services of the Department of Public Safety and Corrections shall issue a concealed handgun permit to any citizen who qualifies for a permit under the provisions of this Section and may promulgate rules and adopt regulations regarding concealed handgun permits in accord-

ance with the Administrative Procedure Act. The permit shall contain a permit number, expiration date, photograph, and the name, address, and date of birth of the permittee. ...

**B.** A concealed handgun permit issued pursuant to this Section shall grant authority to a citizen to carry a concealed handgun on his person.

**J.** For the purposes of this Section, the following terms shall have the meanings ascribed herein:

**(1)** "Handgun" means a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition. The term "handgun" shall not include shotguns or rifles that have been altered by having their stocks or barrels cut or shortened. ...

**T.(1)** Possession of a current and valid concealed handgun permit issued pursuant to this Section shall constitute sufficient evidence of the background check required pursuant to 18 USC 922(t).

## Chapter 9. Weapons

### Part I. Machine Guns

**1751. Definitions** For purposes of this Part, "machine gun" includes all firearms of any calibre, commonly known as machine rifles, machine guns, and submachine guns, capable of automatically discharging more than eight cartridges successfully without reloading, in which the ammunition is fed to the gun from or by means of clips, disks, belts, or some other separable mechanical device. "Manufacturer" includes all persons manufacturing machine guns; "Merchant" includes all persons dealing with machine guns as merchandise.

**1752. Handling of machine guns unlawful; exceptions** No person shall sell, keep or offer for sale, loan or give away, purchase, possess, carry, or transport any machine gun within this state, except that:

**(1)** All duly appointed peace officers may purchase, possess, carry, and transport machine guns.

**(2)** This Part does not apply to the Army, Navy, or Marine Corps of the United States, the National Guard, and organizations authorized by law to purchase or receive machine guns from the United States or from this state. The members of such Corps, National Guard, and organizations may possess, carry, and transport machine guns while on duty.

**(3)** Persons possessing war relics may purchase and possess machine guns which are relics of any war in which the United States was involved, may exhibit and carry the machine guns in the parades of any military organization, and may sell, offer to sell, loan, or give the machine guns to other persons possessing war relics.

**(4)** Guards or messengers employed by common carriers, banks, and trust companies, and pay-roll guards or messengers may possess and carry machine guns while actually employed in and about the shipment, transportation, or delivery, or in the guarding of any money, treasure, bullion, bonds, or other thing of value. Their employers may purchase or receive machine guns and keep them in their possession when the guns are not being used by their guards or messengers.

**(5)** Manufacturers and merchants may sell, keep or offer for sale, loan or give away, purchase, possess, and transport machine guns in the same manner as other merchandise except

as otherwise provided in this Part. Common carriers may possess and transport unloaded machine guns as other merchandise.

**1753. Transfers of possessions permitted in certain cases; method** No manufacturer or merchant shall permit any machine gun to pass from his possession to the possession of any person other than:

**(1)** A manufacturer or a merchant.

**(2)** A common carrier for shipment to a manufacturer or merchant.

**(3)** A duly authorized agent of the government of the United States or of this state, acting in his official capacity.

**(4)** A person authorized to purchase a machine gun under the provisions of paragraphs (1) and (4) of R.S. 40:1752.

Manufacturers or merchants shall not deliver a machine gun to any of the persons authorized to purchase it under the provisions of paragraphs (1) and (4) of R.S. 40:1752 unless the person presents a written permit to purchase and possess a machine gun, signed by the sheriff of the parish in which the manufacturer or merchant has his place of business or delivers the machine gun. The manufacturer or merchant shall retain the written permit and keep it on file in his place of business. Each sheriff shall keep a record of all permits issued by him.

**1754. Registers to be kept; inspection thereof** Every manufacturer or merchant shall keep a register of all machine guns manufactured or handled by him. This register shall show:

**(1)** The date of the sale, loan, gift, delivery, or receipt of any machine gun;

**(2)** The name, address, and occupation of the person to whom the machine gun was sold, loaned, given, or delivered, or from whom it was received; and

**(3)** The purpose for which the person, to whom the machine gun was sold, loaned, given, or delivered, purchased or obtained it.

Upon demand, every manufacturer or merchant shall permit any sheriff or deputy sheriff or any police officer to inspect his entire stock of machine guns, and parts and supplies therefor, and shall produce the register required in this Section and all written permits to purchase or possess a machine gun, which he has retained and filed in his place of business.

#### 1755. Penalty

**A.** Any manufacturer who:

**(1)** Passes possession of or delivers a machine gun to any person in violation of R.S. 40:1753; or

**(2)** Fails to keep an accurate register, as required in R.S. 40:1754; or

**(3)** Fails to produce or account for a sheriff's permit for each machine gun sold by him for which a permit is necessary under the provisions of R.S. 40:1753, shall be imprisoned at hard labor for not less than one year nor more than five years.

**B.** Any person who violates R.S. 40:1752 shall be imprisoned at hard labor for not less than one year nor more than ten years.

**C.** Whoever, having been convicted of murder, armed or simple robbery, aggravated or simple burglary, or aggravated battery, or an attempt to commit any one of those crimes, thereafter violates any of the provisions of this Part shall be imprisoned at hard labor for not less than three years nor more than ten years.

### Part II. Registration

**1781. Definitions** For the purpose of this Part, the following terms have the meanings ascribed to them in this Section:

**(1)** "Dealer" means any person not a manufacturer or importer engaged in this state in the business of selling any firearm. The term includes wholesalers, pawnbrokers, and other persons dealing in used firearms.

**(2)** "Department" means the Department of Public Safety.

**(3)** "Firearm" means a shotgun having a barrel of less than eighteen inches in length; a rifle having a barrel of less than sixteen inches in length; any weapon made from either a rifle or a shotgun if said weapon has been modified to have an overall length of less than twenty-six inches; any other firearm, pistol, revolver, or shotgun from which the serial number or mark of identification has been obliterated, from which a shot is discharged by an explosive, if that weapon is capable of being concealed on the person; or a machine gun, grenade launcher, flame thrower, bazooka, rocket launcher, excluding black powder weapons, or gas grenade; and includes a muffler or silencer for any firearm, whether or not the firearm is included within this definition. Pistols and revolvers and those rifles and shotguns which have not previously been defined in this Paragraph as firearms from which serial numbers or marks of identification have not been obliterated are specifically exempt from this definition.

**(4)** "Importer" means any person who imports or brings into the state any firearm.

**(5)** "Machine gun" means any weapon, including a submachine gun, which shoots or is designed to shoot automatically more than one shot without manual reloading, by a single function of the trigger.

**(6)** "Manufacturer" means any person who is engaged in this state in the manufacture, assembling, alteration, or repair of any firearm.

**(7)** "Muffler" or "silencer" includes any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive and is not limited to mufflers and silencers for firearms as defined in this Section.

**(8)** "Transfer" includes the sale, assignment, pledge, lease, loan, gift, or other disposition of any firearm.

**1782. Exemptions from Part** This Part does not apply to the following persons and things:

**(1)** Sheriffs or equivalent municipal officers in municipalities of over ten thousand, when they are acting in their official capacity.

**(2)** The arms, accoutrements, and equipment of the military and naval forces of the United States or of other officers of the United States authorized by law to possess weapons of any kind.

**(3)** The arms, accoutrements, and equipment of the militia.

**(4)** Any firearm which is unserviceable and which is transferred as a curiosity or ornament.

**1783. Registration with department of public safety** Every person possessing any firearm shall register with the department the number or other mark identifying the firearm, together with his name, address, and place of business or employment, the place where the firearm is usually kept, and, if the person is other than a natural person, the name and home address of the executive officer thereof having control of the firearm and the name and home address of the person having actual possession thereof.

**1784. Application to possess or transfer; use of information or evidence** No person shall continue to possess or shall transfer any firearm without the prior approval of the department. Interested persons shall file written applications in duplicate on application forms issued in blank for those purposes by the department. In the case of transfers of any firearm, applications shall be filed by both the proposed vendor and the proposed vendee.

The applications shall set forth, in the original and duplicate, the manufacturer's number or other mark identifying the firearm. Both the original and duplicate shall be forwarded to the department. If approved, the original shall be returned to the applicant.

No information or evidence obtained from an application, registration or records required to be submitted or retained by a natural person in order to comply with any provision of this Part or regulations issued thereunder shall, except as provided by the laws on perjury or false swearing, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

**1785. Possession or dealing in unregistered or illegally transferred weapons** No person shall receive, possess, carry, conceal, buy, sell, or transport any firearm which has not been registered or transferred in accordance with this Part.

**1786. Seizure and forfeiture of weapons; disposition thereof.** Any firearm possessed or transferred in violation of the provisions of this Part may be seized by the department. Upon seizure, it is forfeited to the state and may be disposed of by the department as follows:

No firearm shall be sold at public sale; the department may order the firearm destroyed or may sell it at private sale to any political subdivision of the state or to any officer thereof, or may retain it for its own use, or may transfer it without charge to any executive department or independent establishment of the state for use by it.

**1787. Importation, manufacture, or dealing in without registration** Upon first engaging in business, every importer, manufacturer, and dealer in firearms shall register with the department his name or style, principal place of business and other places of business in this state. No person required to register under the provisions of this Section shall import, manufacture, or deal in any firearm without having registered as required by this Section.

**1788. Identification with number or other mark; obliteration or alteration of number or mark**

**A.** Each manufacturer, importer, and dealer in any firearm shall identify it with a number or other identification mark approved by the department and shall mark or stamp or otherwise place the number or mark thereon in a manner approved by the department.

**B.** No one shall obliterate, remove, change, or alter this number or mark. Whenever, in a trial for a violation of this Sub-section, the defendant is shown to have or to have had possession of any firearm upon which the number or mark was obliterated, removed, changed, or altered, that possession is sufficient evidence to authorize conviction unless the defendant explains it to the satisfaction of the court.

**1789 Records of importers, manufacturers, or dealers** Importers, manufacturers, and dealers shall keep such books and records and

render such returns in relation to the transactions in firearms specified in this Part as the department requires.

**1790. Rules and regulations; importation of firearms** The department may prescribe such rules and regulations as are necessary for carrying out the provisions of this Part.

Under regulations prescribed by the department, any firearm may be imported or brought into this state or possessed or transferred when the purpose thereof is shown to be lawful.

**1791. Penalty** Upon the first violation of any provision of this Part the penalty shall be a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment with or without hard labor for not less than one nor more than five years. For any subsequent violation of this Part the penalty shall be a fine of not less than two thousand dollars nor more than five thousand dollars and imprisonment at hard labor for not less than five years nor more than ten years.

**1792. Possession of unidentifiable firearm; particular penalties; identification of source of firearm**

**A.** No person shall intentionally receive, possess, carry, conceal, buy, sell, transfer, or transport any firearm which has been illegally obtained or from which the serial number or individual identifying mark, as required by R.S. 40:1788, has been intentionally obliterated, altered, removed, or concealed.

**B.** The provisions of this Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

**C.** Except as otherwise provided in this Section, whoever violates the provisions of this Section may be fined not more than one thousand dollars and shall be imprisoned at hard labor for five years without benefit of probation, parole, or suspension of sentence.

**D.** Prior to sentencing for a conviction under this Section, the defendant shall be given the opportunity to identify the source of the firearm upon which the conviction was based. If the defendant reveals the identity of the source of the weapon and the identity of the source is confirmed by the prosecutor or the court, the defendant shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

**E.** Nothing in this Section shall be construed to prevent the prosecution of an individual who obtained the firearm by theft, robbery, deception, or by other unlawful means from the lawful owner of the firearm.

**F.** Any illegally obtained firearm or a firearm from which the serial number or identifying mark required by R.S. 40:1788 has been obliterated or altered is hereby declared to be contraband and shall be seized by the law enforcement agency of jurisdiction. If it is determined that a person other than the owner was responsible for removing, altering, or obliterating the serial number or identifying mark, the firearm shall be returned to its lawful owner or may be disposed of according to law but only after a new serial number has been permanently fixed on the firearm. If a new serial number is not so affixed, the firearm shall be destroyed by the law enforcement agency in possession of the firearm.

**1796 Preemption of state law**

**A.** No governing authority of a political subdivision shall enact after July 15, 1985, any ordinance or regulation more restrictive than state law concerning in any way the sale, purchase, possession, ownership, transfer, transportation, license, or registration of firearms, ammunition, or components of firearms or ammunition, however this Section shall not apply to the levy and collection of sales and use taxes, license fees and taxes and permit fees, nor shall it affect the authority of political subdivisions to prohibit the possession of a weapon or firearm in certain commercial establishments and public buildings.

**B.** Nothing in this Section shall prohibit a local governing authority in a high risk area from developing a plan with federally licensed firearms manufacturers, dealers, or importers to secure the inventory of firearms and ammunition of those licensees in order to prevent looting of the licensee's premises in a state of emergency or disaster. Such plan shall be renewed on a periodic basis. The information contained in the plan shall be deemed security procedures as defined in R.S. 44:3.1 and shall be released only to the sheriffs of the parishes or police chiefs of the municipalities in which the declared state of emergency or disaster exists.

**C.** For purposes of this Section:

**(1)** "Declared emergency or disaster" means an emergency or disaster declared by the governor or parish president pursuant to the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act.

**(2)** "High-risk area" means the parishes of Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion.

### Part III. Purchase of Rifles and Shotguns

**1801. Declaration of policy** It is declared that it is in the public interest to authorize residents of this state to purchase or otherwise obtain rifles and shotguns or ammunition in states contiguous to this state in compliance with such other laws of this state or its political subdivisions as may be applicable and in compliance with Section 102 of the Gun Control Act of 1968, Public Law 90-618, 18 U.S.C. § 921 et seq. and it is the declared intention of this state that the sale of shotguns and rifles and the sale of ammunition in this state to residents of adjacent states is hereby authorized pursuant to regulations issued under the Gun Control Act of 1968.

**1802. Definitions** As used in this Part:

**(1)** "A state contiguous to this state" shall mean any state having a common border with this state.

**(2)** All other terms shall be given the meaning prescribed in 18 U.S.C. § 921 (the Gun Control Act of 1968, Public Law 90-618) and the regulations duly promulgated thereunder as presently enacted or promulgated and as hereafter modified.

**1803. Purchase of rifle or shotgun or ammunition** It shall be lawful for any person residing in this state, including any corporation or other business entity maintaining a place of business in this state, to purchase or otherwise obtain a rifle or shotgun or ammunition in any state which is contiguous to this state and to receive or transport such rifle or shotgun or ammunition into this state and to permit any person residing in a contiguous state to purchase shotguns,

### Part II-A. Miscellaneous Provisions

rifles or ammunition in this state and to receive or transport such rifles, shotguns or ammunition in this state.

**1804. Application** This Part shall not apply or be construed to affect in any way the purchase, receipt or transportation of rifles or shot-guns or ammunition by federally licensed fire-arms manufacturers, importers, dealers or collectors except to permit such purchase, receipt or transportation.

#### Part IV. Armor-Piercing Bullets

**1810. Definitions** As used in this Part, "armor-piercing bullet" shall mean any bullet, except a shotgun shell or ammunition primarily designed for use in rifles, that:

(1) Has a steel inner core or core of equivalent density and hardness, truncated cone, and is designed for use in a pistol or revolver as a body armor or metal piercing bullet; or

(2) Has been primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, to breach or penetrate body armor when fired from a handgun.

#### 1811. Prohibitions

**A.** No person shall import, manufacture, sell, purchase, possess, or transfer armor-piercing bullets.

**B.** Whoever violates the provisions of this Section shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than one year, or both.

**1812. Exemptions** The provisions of this Part shall not apply to:

(1) Law enforcement officers and employees acting in the lawful performance of their duties.

(2) Law enforcement or other authorized agencies conducting a firearms training course, operating a forensic ballistics laboratory, or spe-

cializing in the development of ammunition or explosive ordinance.

(3) Department of Corrections officials and employees authorized to carry firearms while engaged in the performance of their official duties.

(4) Members of the armed services or reserve forces of the United States or Louisiana National Guard while engaged in the performance of their official duties.

(5) Federal officials authorized to carry firearms while engaged in the performance of their official duties.

(6) The lawful manufacture, importation, sale, purchase, possession, or transfer of armor-piercing bullets exclusively to or for persons authorized by law to possess such bullets.

(7) A bona fide collector licensed by the Department of Public Safety.

[Current through 2008 Regular Session]

## MAINE ME. REV. STAT.

### Title 15. Court Procedure - Criminal

#### Chapter 15. Possession of Firearms by Felons

**393. Possession of firearms prohibited for certain persons.**

**1. POSSESSION PROHIBITED.** A person may not own, possess or have under that person's control a firearm or crossbow, unless that person has obtained a permit under this section, if that person:

**A-1.** Has been convicted of committing or found not criminally responsible by reason of insanity:

(1) A crime in this State that is punishable by imprisonment for a term of one year or more;

(2) A crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year;

(3) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, is punishable by a term of imprisonment exceeding one year. This subparagraph does not include a crime under the laws of another state that is classified by the laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less;

(4) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, does not come within subparagraph (3) but is elementally substantially similar to a crime in this State that is punishable by a term of imprisonment for one year or more; or

(5) A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority was required to plead and prove that the person committed the crime with the use of:

(a) A firearm or crossbow against a person; or

(b) Any other dangerous weapon;

**B.** [Repealed 2001, c. 549, §2]

**C.** Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:

(1) Under paragraph A-1, subparagraphs (1) to (4) and bodily injury to another person was threatened or resulted; or

(2) [Deleted]

(3) Under paragraph A-1, subparagraph (5);

**D.** Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of that person, or from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:

(1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or

(2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury; or

**E.** Has been:

(1) Committed involuntarily to a hospital pursuant to an order of the district court under Title 34-B, Section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, Section 3801, Subsection 4, Paragraphs a to c;

(2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or

(3) Found not competent to stand trial with respect to a criminal charge. For the purposes of this subsection, a person is deemed to have been convicted upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or

finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

**1-A. LIMITED PROHIBITION FOR NONVIOLENT JUVENILE OFFENSES.** A person who has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under subsection 1, paragraph A-1 but is not an adjudication under subsection 1, paragraph C may not own or have in that person's possession or control a firearm or crossbow for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later.

**2. APPLICATION AFTER 5 YEARS.** A person subject to the provisions of subsection 1, paragraph A-1 or C as a result of a conviction or adjudication may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the Commissioner for a permit to carry a firearm or crossbow. That person may not be issued a permit to carry a concealed firearm pursuant to Title 25, chapter 252. A permit issued pursuant to this subsection is valid for 4 years from the date of issue unless sooner revoked for cause by the Commissioner. For purposes of this subsection, "firearm" does not include a firearm defined under 18 United States Code, Section 921(3).

**3. CONTENTS.** An application under subsection 2 must be on a form prepared by the Commissioner of Public Safety. The application must include the following: the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make, model and serial number of the firearm or crossbow sought to be possessed; date, place and nature of conviction; sentence imposed; place of incarceration; name and address of probation or parole officer; date of discharge or release from prison or jail or termination of probation; the reason for the request; and any other information determined by the Commissioner to be of assistance. The application must be