



The TRUTH of Question 3 & Universal Background Checks

The Universal Background Check bill which will appear on the statewide ballot in November sounds simple, but it is not. In fact, the less you know about the bill, the better it sounds, which is why the proponents of the bill don't like to discuss it in detail. We'd like you to know the facts, so you can make up your own mind. Below, you'll see the exact language of the bill, along with plain-English explanations of what each section means. For even more information, go to UBCBadForME.com.

(1B) Does your **great-grandfather or a grand-uncle** want to give you a firearm? The law doesn't exempt them.

Have a **blended family** not related by marriage? It doesn't exempt them, either.

(1E) The definition of "**intimate partner**" is contradictory; people "living together" are not usually considered to be "in a dating relationship". If you depend on this definition to keep you out of jail, you may be in for an unpleasant surprise.

(1J) What's a transfer? See the definition on the last page; it doesn't mean what you think it means. It is much, much broader. And **it will make you a criminal** if you don't understand it.

(2) The law applies to **all transfers** of firearms, not just sales. And because this law defines "transfer" so broadly, you can violate it without even knowing you're done so.

§2014. Background checks for firearms sales and transfers

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

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

B. "**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.

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) (2015).

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 provided in subsection 8, each sale or transfer of a firearm occurring in whole or in part in this State between unlicensed persons must be preceded by a background check on the transferee, and an unlicensed person may not sell or transfer a firearm and an unlicensed person may not receive a firearm without complying with the process described in this section.

(3) To comply with this law, **both the seller/lender and the buyer/borrower must physically meet at a firearm dealer during business hours** to fill out Federal paperwork and to undergo a background check.

(4) If you lent a firearm to a friend, **you'll need to go back to the dealer for a background on yourself** to get your firearm back. If you fail the background check -- as 70,000 innocent citizens do each year -- **you won't get your gun back.**

(6) In addition to the time and travel involved in every transfer, **you will have to pay the dealer for his services.** In the case of lending a firearm, **you'll have to pay twice.**

(7) Those forms you are required to complete are also required to be copied by State law, and made available upon demand to any "sheriff, deputy sheriff, police officer, constable, game warden or prosecuting attorney" (15 MRSA 455). Together with this proposed law, that's all the legal mechanism needed to create a universal firearm registry.

(8B) The law exempts collectors who have a "curios and relics license", but does not exempt holders of a Maine Concealed Handgun Permit, who are subject to stricter scrutiny and background checks than C&R licensees.

3. Background check conducted by firearm dealer. When both parties to a prospective sale or transfer of a firearm 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 record-keeping requirements.

4. No sale or transfer if failed background check. Neither a firearm dealer nor a transferor may deliver any firearm to a transferee if the results of the background check pursuant to subsection 3 indicate that the transferee is disqualified to possess firearms under state or federal law.

5. Leaving dealer with firearm. Notwithstanding any other provision of law:

A. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer while a background check is being conducted pursuant to subsection 3. Before the transferor sells or transfers the firearm to the transferee, the parties must return to the firearm dealer, who shall take possession of the firearm in order to complete the sale or transfer; and

B. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer if the results of the background check pursuant to subsection 3 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. A transferor and a 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 pursuant to this section.

8. Exceptions. The provisions of this section apply to the transfer or sale of a firearm between unlicensed persons except if:

A. The sale or transfer is between family members;

B. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11 (2015), 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) (2015), who both have in their possession a valid collector of curios and relics license issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

C. The sale or transfer is of an antique firearm, as defined in 18 United States Code, Section 921(a)(16) (2015);

(8D) The “imminent threat” exception is not what it seems. It would not exempt a person has reason to fear that may be subject to a violent attack in the near future. Like legal self-defense, it would only exempt them in the moment before they are actually attacked.

(8E) The law exempts private security, such as the bodyguards used by the very wealthy. Why are they exempted, but ordinary citizens are not? And why not those who have undergone the training and background checks to obtain a Concealed Handgun Permit aren't?

(8F) These exceptions are far less than they seem. These exceptions **do not** permit you to lend a firearm to a friend or neighbor to take to a range or to go hunting. These exceptions only apply when the lender and the borrower are actually at an **established shooting range** (sand pits or open fields may not qualify), or **actually engaged in hunting or trapping**, and only in those places where hunting and trapping are legal.

The lender and borrower must go together to the competition, range or hunting, and only when in that place may a firearm be loaned. **And it must be returned before leaving that place or ceasing the activity.** If you violate even one of these requirements, you will commit a crime.

(9) These are serious crimes, and can result in the loss of your right to possess firearms. A first offense is a Class D crime, which can result in a year's jail time and a \$2,000 fine. A second offense is a Class C crime -- a felony -- punishable by 5 years imprisonment and a \$5,000 fine. **And mandatory loss of your gun rights for life.**

A single illegal loan of a firearm would be two offenses -- one for the loan of the firearm, and another for the return of the firearm. Both borrower and lender would be guilty of a felony, and lose their gun rights for life.

D. 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;

E. 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 the person's 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 a security guard or employed by a contract security company or proprietary security organization under Title 32, chapter 93;

F. 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 take place exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located or, 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 for participation in or practice for a performance by an organized group that uses firearms as a part of the performance;

(3) While the transferee is 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.

G. The transfer occurs by operation of law upon the death of a person for whom the transferee is an executor, administrator, 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 2nd or subsequent conviction involving the sale or transfer of one or more firearms, a Class C crime.

What is a "Transfer"? Probably not what you think...

The bill uses the extremely broad definition of "transfer" from the law which makes it a crime to give a firearm to a child. That is, it literally treats adults as though they were children. This is the definition used:

§554-A. Unlawful transfer of a firearm other than a handgun to a minor

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

A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration. [1995, c. 263, §3 (NEW).]

B. [2007, c. 512, §1 (RP).]

C. "Sell" means to furnish, deliver or otherwise provide for consideration. [2007, c. 512, §1 (NEW).]

D. "Firearm" means a firearm other than a handgun as defined in section 554-B, subsection 1, paragraph A. [2007, c. 512, §1 (NEW).]

Under this definition, almost any action which results in another person coming into possession or control of a firearm constitutes a transfer; the terms "furnish" or "otherwise provide" cover almost any conceivable situation.

Universal Background Checks are Bad for Maine because:

- Background checks do not prevent criminals from obtaining guns. According to the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, **the largest source of crime guns** traced by the agency is **background-checked dealer sales**. Nearly half of all crime guns are obtained through a background check; it's the criminal's **favorite** way to get guns, in fact, because background checks are so easy to defeat. Criminals simply have a buddy or a girlfriend with a clean record buy the gun for them. Extending background checks to private sales won't change that at all, but it will make it more difficult and expensive to buy, sell and borrow firearms.
- **The law is unenforceable** as it stands. Law enforcement has no way to know, and no way to check if a firearm owner complied with the law when he obtained the firearm. In Oregon, where a similar law has been in place for a year, 40% of all firearm sales are private, but only 2% of background checks are for private sales. Oregonians are ignoring the law, because it cannot be enforced. **The only way to enforce it is to implement a universal firearm registration system.**
- **The bill sets the groundwork for firearm registration.** Not only does the bill provide a ready-made justification for firearm registration (as it cannot be enforced without registration), but it also implements the mechanism to generate and gather the data for a registry. By requiring all transfers to be documented by licensed dealers, the needed data is collected. An existing Maine statute (15 MRSA 455) requires dealers to provide transfer records to officials upon demand, without warrant, reason or justification.
- **The bill will make it impossible for young adults to lawfully purchase a handgun,** even if they are serving or honorably discharged military servicemen., Adults between the ages of 18 and 20 may currently purchase handguns in private transactions. This bill would remove their right do so.
- **The bill will create criminals out of ordinary Mainers** by criminalizing ordinary, traditional and harmless actions that they have done for generations. The misleading "exceptions" cited by the bill's proponents don't work the way people think they do, and will cause people to unwittingly violate the law.
- **The bill will put people at risk,** by making them choose between obeying the law, and protecting themselves and the ones they love.
- Unlike normal bills which go through the legislative process, a citizen initiative cannot be modified before it becomes law. There are no public hearings, no testimony, and no chance to correct problems in the proposed bill. **All of the many serious flaws, defects and traps in the law must be passed as-is,** or not at all.