

## 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

**Legislative Document** 

No. 942

S.P. 333

In Senate, March 17, 2015

An Act To Permit the Use of Firearm Noise Suppression Devices in Hunting and To Provide for a Chief Law Enforcement Officer's Certification for Certain Firearms

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

HEATHER J.R. PRIEST Secretary of the Senate

Presented by Senator MASON of Androscoggin.
Cosponsored by Representative SHAW of Standish and
Senators: COLLINS of York, DAVIS of Piscataquis, WHITTEMORE of Somerset,
Representatives: DUNPHY of Embden, ESPLING of New Gloucester, TIMBERLAKE of
Turner, WOOD of Sabattus.

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

- Sec. 1. 12 MRSA §11214, sub-§1, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.
  - Sec. 2. 12 MRSA §11214, sub-§3 is enacted to read:

- 3. Noise suppression device. An individual in lawful possession of a device to suppress or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any wild animals or wild birds the individual is licensed to hunt under this chapter and for which the firearm is allowed with that device attached to the firearm.
  - Sec. 3. 25 MRSA §2013 is enacted to read:

## §2013. Chief law enforcement officer's certification; certain firearms

- 1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
  - A. "Certification" means the participation and assent of a chief law enforcement officer necessary under federal law for the approval of an application to transfer or make a firearm.
  - B. "Chief law enforcement officer" means an official or the official's designee who the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives or successor agency identifies as eligible to provide certification.
    - C. "Firearm" has the same meaning as in the National Firearms Act, 26 United States Code, Section 5845(a).
  - 2. Chief law enforcement officer's certification. Within 15 days of receipt of an application for certification, the chief law enforcement officer shall provide the certification if the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in the applicant's being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer denies an application for certification under this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial, which may not be based upon a generalized objection to a private person's possessing, making or transferring a firearm or to a certain type of firearm that is otherwise lawful.
  - 3. Criminal history record check; search of premises. In making a certification required by subsection 2, a chief law enforcement officer may require the applicant to provide only such information as required by federal or state law to identify the applicant and conduct a criminal history record check or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.

- **4. Immunity.** Pursuant to Title 14, section 8111, subsection 1, a chief law enforcement officer or employee of the chief law enforcement officer who acts in good faith is immune from liability arising from any act or omission in making a certification as required by this section.
- 5. Denial; appeal. An applicant whose request for certification is denied may appeal the chief law enforcement officer's decision to the District Court that is located in the city or county in which the applicant resides or maintains as the applicant's address of record. The court shall review the chief law enforcement officer's decision to deny the certification de novo. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in such prohibition, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

13 SUMMARY

 This bill accomplishes the following.

- 1. It removes the prohibition on the use of firearm noise suppression devices when hunting and provides that a person who is otherwise lawfully hunting may use such devices.
- 2. It establishes a procedure for a person to obtain a chief law enforcement officer's certification under federal law for the approval of an application to transfer or make a firearm, requires that the certification be provided in a timely fashion unless the applicant is ineligible, limits the personal information required from the applicant, establishes a right to an appeal in the case of a denial and clarifies that under the Maine Tort Claims Act the chief law enforcement officer or an employee of the chief law enforcement officer making the certification is immune from liability.