



Advisory on 72 Hour Waiting Period

On August 9, 2024, a new law will take effect requiring a 72-hour waiting period for certain sales of firearms. The Maine Department of Public Safety (“DPS”) and the Maine Office of the Attorney General (“OAG”) provide the following guidance to sellers and buyers of firearms to assist them in complying with this law.

Whether a particular transaction is subject to and complies with the law is fact-specific. In offering this guidance, the DPS and the OAG are not providing legal advice. Firearms sellers and buyers with questions beyond the scope of this guidance should consult with legal counsel.

Where can I find the law that requires a waiting period?

The law can currently be found [here](#), as Public Law 2023, Chapter 678.

Once the Revisor of Statutes has completed the update of Maine’s online statutes from the most recent legislative session, the statute can be searched by inputting Title 25 and Section 2015 [here](#).

In addition, the text of the law is available at the link accompanying this Advisory under “Advisory on 72 Hour Waiting Period Law.”

What requirements does the law impose on sellers?

A seller may not knowingly deliver a firearm to a buyer pursuant to an agreement sooner than 72 hours after the agreement. This 72-hour waiting period is concurrent with any waiting period imposed by any background check process required by federal or state law.

What constitutes an “agreement” under the law?

An agreement means an agreement reached between a buyer and seller for the purchase and sale of a specifically identified firearm. While the law does not expressly state that the agreement be in writing, the DPS and OAG strongly recommend that sellers maintain contemporaneous documentation of agreements so that if questions arise, the existence and terms of agreements can be confirmed. Examples of such documentation may include correspondence between the seller and buyer, written confirmation of an online or telephone order, or completion of ATF Form 4473.

Who is a “seller” of a firearm under the law?

A “seller” is a person, including a firearm dealer, that owns a firearm and is transferring ownership of the firearm to a buyer pursuant to an agreement.

Who is a “buyer” of a firearm under the law?

A buyer is a person, other than a firearm dealer, who receives possession or ownership of a firearm through an agreement.

What is a “firearm” under the law?

“Firearm” is defined by reference to another statute: [Title 17-A, section 2, subsection 12-A](#). It means “any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.” However, certain firearms are exempted from the waiting period law, as described below.

Who is considered a “firearm dealer”?

A “firearm dealer” is a person that is licensed as a dealer under [18 United States Code, Section 923\(a\)\(3\)](#) or that is required to be licensed as a dealer under that section.

What is the starting point for the 72-hour waiting period?

The time period begins when the buyer and the seller have entered into an agreement for the purchase and sale of a specifically identified firearm.

Does the 72 hours overlap with any time required for a background check?

Yes, it can. The law explicitly states that the waiting period must be “concurrent” with the time needed for any required background check. This means that when the FFL initiates a background check, the time it takes to complete the background check counts toward the 72-hour waiting period.

What are the penalties for violating the law?

A seller who violates the law commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be imposed. Subsequent violations may be subject to fines of not less than \$500 and not more than \$1,000.

Are sales to certain individuals exempt from the waiting period?

Yes. The waiting period does not apply if the seller knows that the person to whom the firearm is being sold is (1) A law enforcement officer as defined by [Title 17-A, section 2, subsection 17](#); (2) A corrections officer as defined by [section 2801-A, subsection 2](#); or (3) A person who is employed by a contract security company or proprietary security organization as defined by [Title 32, section 9403](#) or a person who is licensed as a private security guard under [Title 32, chapter 93](#).

The waiting period does not apply to the sale of firearms to firearm dealers.

The waiting period does not apply if the buyer and seller are family members. A “family member” means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child, grandparent, grandchild, brother, sister, aunt, uncle, niece, or nephew.

Are sales of certain firearms exempt from the waiting period?

Yes. A curio or relic firearm, as defined in [27 Code of Federal Regulations, Section 478.11](#), is exempt if the sale, transfer or exchange is between collectors, as defined in [18 United States Code, Section 921\(a\)\(13\)](#), who each have in their possession a valid collector of curios and relics license issued by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

The sale of “antique firearms,” as defined in [18 United States Code, Section 921\(a\)\(16\)](#), is not subject to the law.

Are there any other exemptions?

Yes. The waiting period does not apply to transactions for which neither federal nor state law requires a background check of the buyer. In other words, if the sale does not require a background check under either state or federal law, then no waiting period is required. Sellers should be aware that beyond federally required background checks, and with limited exceptions, Maine law requires background checks whenever a seller sells to a buyer at a gun show or as a result of an advertisement. The Maine background check law can be found [here](#).

Does the waiting period apply to all transfers of firearms?

No. The law applies only to transfers in which a person who owns a firearm is transferring ownership of the firearm to a buyer. Generally speaking, a temporary loan or rental of a firearm for a limited period of time will not require a waiting period. Examples might include temporary use of a firearm for instructional activities and guided hunts. Whether ownership is being transferred is a fact-specific question and will depend on the particular circumstances of the transaction.

How does the Maine law affect federal statutes and regulations?

The Maine law does not change federal law, including federal laws imposing licensing and other requirements on persons engaged in firearms transfers. So, while some transactions may not require a waiting period under Maine law, all relevant federal statutes and regulations still apply.

FFLs selling firearms to residents of states other than the state in which the FFL is located should refer to [this](#) ATF webpage.

If FFLs have questions about compliance with federal law, they should contact the ATF Boston Field Division at (617-557-1200). See also the [ATF Quick Reference and Best Practices Guide](#) and [ATF’s Frequently Asked Questions site](#).