

MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date November 14, 1973

To Parker Hennessey, Commissioner

Dept. Public Safety

From Jon A. Lund, Attorney General

Dept. Attorney General

Subject INTERPRETATION OF THAT PORTION OF 25 M.R.S.A. §2031 (THREATENING DISPLAY OF OR CARRYING CONCEALED WEAPONS: LICENSES) CONCERNING NONRESIDENTS.

QUESTION:

Pursuant to 25 M.R.S.A. §2031, as amended, what nonresidents under what circumstances are entitled to obtain from the Chief of the Maine State Police or his designee a license to carry a concealed weapon?

ANSWER:

By virtue of the relevant portions of 25 M.R.S.A. §2031 the Chief of the Maine State Police or his designee may issue a license to a nonresident permitting him to carry a concealed weapon during the working hours he shall be employed if each of the following five statutory criteria are met by the nonresident applicant:

- (1) that the nonresident submit a written application therefor;
- (2) that the nonresident not fall within the local licensing authority;
- (3) that the nonresident be employed by a public utility corporation, or a person, firm or corporation engaged in the business of transferring money or in a business of a similar nature;
- (4) that the nonresident be of good moral character; and,
- (5) that the nonresident obtain an endorsement of his application by his employer.

Although proper application of 25 M.R.S.A. §2031 to nonresidents requires an understanding and application of all five criteria in every case, only criterion number 3 appears to cause problems for the Department of Public Safety and, in consequence, only criterion 3 will be examined below.

The language in question became a part of 25 M.R.S.A. §2031 by virtue of P.L. 1967, C. 368. Prior to this 1967 amendment, the statute dealt solely with residents. A study of the available

legislative listing surrounding 25 M.R.S.A. §2031 as amended reveals nothing which aides in clarifying the meaning and intent of the language in question. And in addition, no case law addresses this statute. In consequence, meaning and intent must necessarily come from an analysis of the statutory language.

Pursuant to criteria number 3, the Chief of the Maine State Police or his designee can consider only those applications from nonresidents who are includable within one of the following three employment groups:

(a) employed by a public utility corporation; or,

(b) a person, firm or corporation engaged in the business of transferring money; or,

(c) a person, firm or corporation engaged in a business of a similar nature to the business of transferring money.

The first employment group encompasses all those employed by a public utility corporation. A "public utility corporation" is defined by statute at 35 M.R.S.A. §15. See also 35 M.R.S.A. §§3-5, 7, 8, 10, 12, 15-17, 19, 24, 25, 27. Further elaboration appears unnecessary.

The second employment group encompasses any person, firm or corporation engaged in the business of transferring money. There exists no apparent reason for assuming the Legislature used the terms "business", "transferring" and "money" other than pursuant to their common meaning. "Business" appears to be used in the sense of one's constant employment, regular occupation, work or livelihood. "Transferring" appears to be used in the sense of conveying or transporting from one place to another. And "money" is coinage or paper used as a means of payment, a medium of exchange; currency of this or any foreign government. In consequence, this employment group, in light of the above definitions, would contain only those persons, firms or corporations employed specifically to move currency from place to place.

The third and final group is the most difficult to delimit. The statutory language refers to a business of a similar nature "to the business of transporting money". To be "similar in nature" the thing to be transported must be nearly corresponding in character, quality and kind to money. It therefore must be a thing that is readily negotiable and is commonly viewed as a money equivalent. A few common examples of things nearly corresponding in character, quality and kind to money would be checks, money orders, stocks, bonds, stamps and credit cards. The legislature demands however, just as in the case of the second employment

group examined, that to qualify for a license to carry a concealed weapon it is not enough that the person, firm or corporation transport such items. In addition it is crucial that such person, firm or corporation be engaged in the business of transporting such things.

Applying the above analysis to the two examples you cite of pending requests for licenses to carry concealed weapons, it should be evident that neither the automobile dealer nor the executive of the demolition firm are entitled to a license.

The automobile dealer is neither an employee of a public utility corporation, nor a person, firm or corporation engaged in the business of transferring money. He is instead a person engaged in the business of buying and selling cars who finds it necessary to carry with him sums of money presumably as a consequence of sales of automobiles or in preparation for purchases of automobiles. Therefore, the facts demonstrate that he is not in the business of transferring money, and the business of buying and selling automobiles is not of a similar nature to the business of transferring money.

The executive of the demolition firm is in no better position to obtain a license than was the car dealer. The executive of the demolition firm is neither an employee of a public utility corporation, nor a person, firm or corporation engaged in the business of transferring money. He is instead a person engaged in the business of demolition who, as a consequence of his duties as an executive in the demolition firm finds it necessary to carry cash and payroll checks. He is, therefore, not in the business of transferring money and the demolition business is not of a similar nature to the business of transferring money.