

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date March 25, 1976

To Col. Donald E. Nichols, Chief

Dept. Maine State Police

From Joseph E. Brennan, Attorney General

Dept. Attorney General

Subject Concealed Weapon Permits

I refer to your memorandum of February 10, 1976, in which you request an opinion from this office regarding the issuance of concealed weapon permits by municipal officers. I assume that your specific question is whether under 25 M.R.S.A. §2031 municipal officers may impose, in addition to the requirement of good moral character, other preconditions for the issuance of a concealed weapons permit.

25 M.R.S.A. §2031 provides in part:

". . . the chief of police or city marshal of any city or the selectmen of any town may upon written application therefor issue to any legal resident of such city or town of good moral character, a certificate setting forth that such person has been duly licensed to carry such weapon mentioned in the certificate. . . ."

The quoted language indicates clearly that the legislature has established but one criterion for the issuance of a concealed weapons permit: good moral character. Presumably, if the legislature had wished to impose additional licensing prerequisites it would have enumerated them. Moreover, the legislative history of 25 M.R.S.A. §2031 fails to reflect a different legislative intent. The origin of the statutory language quoted above is PL 1917, c. 217, §2, and the 1917 Legislative Record contains no debate on the subject of concealed weapons licensing by municipal officials.

Absent a clear statement of legislative intent to the contrary, we must conclude that the legislature intended that the standard "good moral character" be the sole criterion for the issuance of a concealed weapons permit. An attempt by municipal officers to impose additional standards would be an unconstitutional usurpation of a legislative prerogative. See Small v. Maine Board of Registration and Examination in Optometry, 293 A.2d 786, 788-89 (Me. 1972). Consequently, the holding of

Col. Nichols
Page 2
March 25, 1976

the court in Bryant v. Macomber, Civil Docket No. 74-251 (Kennebec Cty. Super. Ct., 1975), relative to this question was inescapable.

I would add that the Department of the Attorney General feels strongly that 25 M.R.S.A. §2031 should be amended to establish clearer standards for the issuance of concealed weapons permits. A proposed amendment to §2031 was submitted to the First Special Session of the 107th Legislature but was rejected by the Screening Committee and therefore will not be considered during the current session. Because of our concern about the deficiencies of §2031, the Maine Attorney General's Office will make every effort to see that legislation establishing concrete standards for the issuance of a concealed weapons permit is considered by the next Regular Session.

JOSEPH E. BRENNAN
Attorney General

JEB/MDS/mp