

# MAINE STATE LEGISLATURE


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Department of Attorney General

MEMORANDUM

To: Irvin C. Caverly, Jr., Director, Baxter State Park  
From: Rufus E. Brown, Deputy Attorney General   
Date: September 3, 1985  
Subject: Carrying Concealed Weapons Within Park Boundaries

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This memorandum confirms my oral advice to you that Rule 21 of the Park's Rules relating to firearms is applicable to and enforceable against individuals who are licensed to carry concealed weapons pursuant to 25 M.R.S.A. §§ 2031-2035 (Supp. 1984-1985).

Rule 21 of the Park's Rules provides, in relevant part that:

Hunting, trapping or the use or possession of any firearms . . . or pistol within the boundaries of the Park is prohibited, provided, however, firearms may be transported through the Park, but must be kept in the car trunk or completely enclosed in a case. All firearms must be inaccessible to use. Firearms may be kept for protection with the written permission of the Authority by sporting camps located within the Park. A record of such firearms, indicating serial numbers and the name of persons authorized to use them, shall be kept open to inspection at all times by Park Rangers or Inland Fisheries and Wildlife Wardens. Firearms may be used only by Park personnel or law enforcement officers on official duty.

This regulation, issued pursuant to the Authority's rulemaking powers, 12 M.R.S.A. § 903, is applicable to all kinds of firearms, not just concealed weapons, and is obviously intended to implement the hunting restrictions contained in the Park's trust deeds which the Authority is obligated to enforce.


State law relating to concealed weapons is aimed at an entirely different purpose. Section 2031 of Title 25 generally prohibits a person from wearing under his clothes or concealing about his person a firearm unless excepted by a provision of law. Section 2031.1 then provides for an exception to the prohibition for persons who are licensed to carry a concealed weapon as provided by law. Schwanda v. Bonney, 418 A.2d 163, 166 (Me. 1900). Section 2032 specifies that municipalities may license a person to carry a concealed weapon provided that the criteria set forth in the statute are met. Section 2032.8 further provides that "permits issued authorize the person to carry such concealed weapons throughout the State."

At first blush it may appear that Section 2032.8 authorizes persons with licenses to carry concealed weapons at any time at any place notwithstanding any regulations of any state agency of the State to the contrary. However, in my view such would not be an accurate reading of the law.

The general intent of the licensing provisions of the concealed weapons statute clearly is to create an exception to what otherwise is a blanket prohibition against the carrying of concealed weapons. Accordingly, a person who is issued a permit to carry a concealed weapon stands in the same position as if there were no prohibition against concealed weapons in the first place. Such a person is not given affirmative rights to ignore other valid state regulations relating to firearms. The concealed weapon statute no more authorizes unrestricted carrying of concealed weapons in the Park than it does in a courtroom just as a fishing license hardly authorizes a person to fish in any lake or stream in the State. Such being the obvious thrust of the licensing provisions generally, I would likewise conclude that section 2032.8, which is part of that statutory scheme, does no more than define the territorial scope of the permit to carry concealed weapons (i.e., even though the license is issued by a municipality, it is good only within the state) and does not define affirmative rights to carry a weapon where other restrictions are applicable. See Schwanda v. Bonney, supra, 418 A.2d at 166.

In summary, the Park's Rule 21 is designed to regulate the hunting in the Park; it is not a licensing scheme for the carrying of concealed weapons. Therefore in my opinion there is no irreconcilable conflict between State law and the Park's regulations that would justify the conclusion that State law concerning concealed weapons prevents the Park's rules on firearms from being enforced.

If you have any further questions about this matter, please do not hesitate to call me.



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RUFUS E. BROWN  
Deputy Attorney General

REB:mfe

cc: James E. Tierney  
Glenn H. Manuel