

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 202

H. P. 164

House of Representatives, February 1, 1977

Referred to the Committee on Judiciary. Sent up for concurrence and 2,000 copies ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. McMahon of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Regulate the Issuance of Concealed Weapons Permits.

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

25 MRSA c. 253, as last amended by PL 1975, c. 449, §§ 1 and 2, is repealed and the following enacted in its place:

CHAPTER 253

LICENSES TO CARRY WEAPONS

§ 2031. Carrying of concealed weapons

Permit required. No person shall carry a concealed weapon without a permit issued pursuant to this chapter.

§ 2032. Permits issued by State Police

1. Certain nonresidents. The Chief of the Maine State Police or persons authorized by him may, upon written application therefor, issue to a non-resident not falling within the local licensing authority, who is in the employ of a public utility corporation, or a person, firm or corporation engaged in the business of transferring money, a concealed weapons permit.

2. Character of applicant. The applicant shall be of good moral character and the application shall be endorsed by his employer.

3. Validity of permit. This permit shall be valid only during working hours and shall cease to be valid when the employee leaves the employment of the employer who endorsed the application.

4. Duration of permit. All the permits shall continue to be in force to the end of the calendar year in which issued and for one year thereafter unless sooner revoked by the Chief of the Maine State Police.

5. Permanent record of permit. The Chief of the Maine State Police or persons authorized by him shall make a permanent record of that permit in a book or file kept for that purpose. That record shall include date of issuance, the name, age, sex and street address of permit holder, together with complete description of weapon and a description of the permit holder, which shall be placed on the permit.

6. Geographical area. All permits issued in accordance with this section shall authorize the person so licensed to carry that weapon throughout the State.

§ 2033. Local issuance of concealed weapons permits

A licensing authority in any municipality shall have the sole authority to issue concealed weapons permits for residents of the State of Maine, pursuant to the terms of this chapter.

§ 2033-A. Definitions

As used in this chapter, unless the context clearly indicates otherwise, the following words shall have the following meanings.

1. Alcoholism. "Alcoholism" is defined as a condition or state evidenced by counselling or having been counselled for chronic, excessive use of intoxicating beverages or having been admitted to a public or private institution because of chronic, excessive use of intoxicating beverages.

2. Concealed. "Concealed" is defined to mean hidden from the normal view of others about the body or clothing of a person. It shall include being hidden from view in such close proximity of the body such as to be considered to be about the body, but shall not include location or placement in a motor vehicle.

3. Convicted. "Convicted" is defined as having been found guilty of a violation of law in a court of competent jurisdiction. In no case shall the intention to appeal or existence of an appeal from a conviction hold in abeyance the operation of the provisions of this chapter.

4. History. "History" is defined as a record of facts about a person usually, but not always, written, detailing past experiences, events and the like.

5. Illegal use of drugs. "Illegal use of drugs" is defined as conviction for possession, sale, use or knowingly being present during the use of any of those drugs considered dangerous or narcotic by the statutes of this State, including cannabis sativa L, commonly known as marijuana, and lophophora, commonly known as peyote.

6. In connection with the operation of a business. "In connection with the operation of a business" is defined as a term or phrase meaning a direct and unique relationship to the nature of a business or method of operation of a business.

7. In person. "In person" is defined as personal appearance and not appearance by representative. It shall in no way preclude an individual from being accompanied by legal counsel.

8. Licensing authority. "Licensing authority" is defined as the chief of police, if any, and the municipal officers in any community.

9. Mental instability. "Mental instability" is defined as a condition or state existing presently or in the past, which is evidenced by the receipt of treatment or counselling for a mental defect or disorder, physical or psychological in origin, or by confinement in a public or private institution for treatment or counselling for such a disorder.

10. Permit. "Permit" is defined as a paper, properly completed and signed, in duplicate, authorizing the holder of that paper to carry a concealed weapon. The permit shall contain date of issuance of permit; date of expiration of permit; complete description of weapon; and, in the case of firearms, the caliber, make and serial number of the weapon. The permit shall also contain any restrictions or conditions upon which it was issued.

11. Security services. "Security services" are defined as those services recognized generally by society as being in the nature of guarding or protecting lives or property, such as the services performed by watchmen, bodyguards, bank guards and the like.

12. Weapon. "Weapon" is defined as any firearm, loaded or unloaded, of any description, or any other device or article designed primarily to be used to threaten or harm human beings.

§ 2034. Eligibility

1. Persons issued permit. The following persons may be issued a permit to carry a concealed weapon upon meeting all of the following conditions and restrictions:

A. A person performing security services in the employ of others or for himself in connection with the operation of a business, who can demonstrate to the licensing authority that, in the course of his duties, his life or the lives of others may be endangered. A permit issued for this reason shall only be valid when in the course of performing such security services;

B. A person who has had a threat against his life or the life of a member of his immediate family, to wit: spouse, children, mother, father, brother or sister. These threats must be sworn to before the licensing authority by the applicant, under criminal penalty of perjury;

C. A person who holds a valid Maine hunting or fishing license may be issued a permit for carrying a concealed weapon during those times and in those places as are allowed under other statutes relating to hunting and shall not permit the carrying of concealed weapons as prohibited under Title 12, chapter 319.

4. Persons ineligible for concealed weapons permits. The following persons shall not be issued a permit to carry a concealed weapon under any conditions or circumstances:

A. Persons who have been convicted of a felony offense;

B. Persons with a history of mental instability;

- C. Persons with a history of alcoholism;
- D. Persons who have been convicted of illegal use of drugs; and
- E. Persons not meeting all of the conditions and restrictions enumerated in this chapter.

§ 2035. Conditions and restrictions

All of the following conditions and restrictions shall be fulfilled before the licensing authority is authorized to issue a permit for a concealed weapon.

1. Applicant to file written application. Each applicant for a permit for a concealed weapon shall complete a written application and file it with the licensing authority or its representative along with a fee set by them to cover the cost of processing, which fee shall be nonrefundable.

2. Application to contain authorization. Each written application shall contain an authorization to be signed by the applicant giving the licensing authority or its representative access to all military, medical and psychiatric records made or held by any public or private institution or agency, individual, or practitioner and relating solely to the applicant's fitness to possess a concealed weapons permit.

3. Investigation by licensing authority. The licensing authority or its representative shall formally investigate the police record of each applicant and a written report of this investigation shall be filed with the licensing authority. The minimum records investigation shall be one made through the Bureau of Identification of the Maine State Police, but the licensing authority or its representative is vested with the authority to require a review of Federal Bureau of Investigation records or the records of other police agencies, or both.

4. Statement of chief of police. The chief of police shall file a statement with the licensing authority stating his personal recommendation, based on any personal knowledge of the applicant, of the need for a permit as expressed by the applicant and state reasons for that recommendation.

5. Conviction of a felony voids permit. Conviction of the holder of a concealed weapons permit for any felony shall automatically void that permit.

6. Permit term; renewal. The term of all concealed weapons permits shall be for a term no longer than the remainder of the calendar year in which they are issued, and one additional full year thereafter, terminating on December 31st. Every person holding a concealed weapons permit shall reapply for that permit and all of these applications shall be treated in the same manner as first applications under this chapter, including the payment of the application fee. No licensing authority or its representative shall be considered to be bound by the findings or decisions of any previous licensing authority.

§ 2036. Records

The licensing authority or its representative shall keep a separate file on each applicant for a concealed weapons permit. The file shall contain at least the following information:

1. **Original application.** Original application for permit;
 2. **Written reports.** Written reports of all investigations and recommendations made with respect to the applicant;
 3. **Written statement of reasons for issuance or denial of permits.** Written statement by licensing authority or its representative stating the reasons why a permit was issued or denied;
 4. **Date of issuance or denial; date of permit expiration.** Date of issuance or denial and, if issued, date of expiration of permit;
 5. **Copy of permit.** Copy of permit, if issued.
- § 2037. Licensed private detectives and law enforcement officers not prohibited

This chapter shall not be construed as prohibiting the carrying of concealed weapons by licensed private detectives and other persons charged with the enforcement of law.

§ 2038. Appeals

Appeals from a decision of the licensing authority or its representative rendered pursuant to this chapter may be taken in an action in Superior Court of the county in which the municipality is located pursuant to Rule 80B of the Maine Rules of Court.

§ 2039. Validity

Any permit issued in accordance with this section shall authorize the permit holder to carry that weapon throughout the State.

§ 2040. Penalty

Whoever violates any of the provisions of this chapter shall be punished by a fine of not more than \$500 or by imprisonment of not more than 6 months, or by both.

STATEMENT OF FACT

This bill provides for the comprehensive regulation of the municipal issuance of concealed weapons permits.