

MAINE STATE LEGISLATURE

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(New Title)
New Draft of H. P. 359, L. D. 450

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1761

H. P. 1536

House of Representatives, May 6, 1977

Reported by Mr. Spencer from the Committee on Judiciary. Printed under
Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to the Possession of Firearms by Persons Convicted of
Certain Crimes.

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

Sec. 1. 15 MRSA § 392, as amended by PL 1965, c. 327, § 1, is repealed and the following enacted in its place:

§ 392. Application

The penal provisions of section 393 shall not apply to any person employed as a law enforcement officer or employed by a watch, guard or patrol agency licensed under Title 32, chapter 55-A.

Sec. 2. 15 MRSA § 393, as amended by PL 1965, c. 327, § 2, is repealed and the following enacted in its place:

§ 393. Possession of firearms prohibited for certain persons

1. Possession prohibited. No person who has been convicted of any crime, under the laws of the United States, the State of Maine or any other state, which is punishable by one year or more imprisonment or any other crime which was committed with the use of a dangerous weapon or of a firearm against a person, except for a violation of Title 12, chapter 319, subchapter III, shall own, have in his possession or under his control any firearm, unless such a person has obtained a permit under this section.

2. Application after 5 years. Any person subject to the provisions of subsection 1 may, after the expiration of 5 years from the date of his discharge or release from prison or jail, termination of probation, parole or con-

viction, if only a fine was imposed, apply to the Commissioner of Public Safety for a permit to carry a firearm. Such a person shall not be issued a license to carry a concealed firearm or other weapon pursuant to Title 25, section 2031.

3. **Contents.** The application shall be on a form prepared by the Commissioner of Public Safety. The application shall include the following: The applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make, model and serial number of the firearm sought to be possessed; date, place and nature of conviction; sentence imposed; place of incarceration; name and address of probation or parole officer; date of discharge or release from prison or jail or termination of probation; the reason for the request; and any other information deemed by the commissioner to be of assistance. The application shall be accompanied by certified or attested copies of the indictment, information or complaint, judgment and commitment and discharge which are the subject of the conviction.

4. **Notification, objection and hearing.** Upon receipt of an application, the Commissioner of Public Safety shall determine if it is in proper form. If the application is proper, he shall within 30 days notify in writing the sentencing judge, the Attorney General, the district attorney for the county where the applicant resides, the district attorney for the county where the conviction occurred, the law enforcement agency which investigated the crime, the chief of police and sheriff in the municipality and county where the crime occurred and the chief of police and sheriff in the municipality where the applicant resides as of the filing of the application. The commissioner may direct any appropriate investigation to be carried out. If, within 30 days of the sending of notice, any person so notified objects in writing to the issuance of a permit, none shall be issued. The commissioner may deny an application if no objection is filed.

5. **Appeal.** Any person to whom a permit has been denied may appeal to the Superior Court of Kennebec County. The decision of the commissioner may not be overturned unless the court shall find that the applicant's request is reasonable and that the denial of the commissioner was arbitrary, capricious or discriminatory.

6. **Filing fee.** The commissioner may establish a reasonable filing fee not to exceed \$25 to defray costs of processing applications.

7. **Definitions.** For the purposes of this section, the term "dangerous weapon" shall have the same meaning as in Title 17-A, section 2, subsection 9 and the term "firearm" shall have the same meaning as in Title 17-A, section 2, subsection 12-A.

8. **Penalty.** A violation of subsection 1 is a Class C crime.

STATEMENT OF FACT

This new draft makes clear that convictions for hunting violations are not within the scope of the bill. It reduces the offense of possession of a firearm by a person included in the scope of the bill from a Class B crime to a Class C crime.

This new draft also generally clarifies the wording of the bill.