

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 559

H. P. 442

House of Representatives, February 14, 1979

Referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Laffin of Westbrook.

Cosponsors: Mr. Lowe of Winterport and Mr. Drinkwater of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Relating to the Issuance of Licenses to Carry Concealed Weapons.

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

Sec. 1. 15 MRSA § 393, sub-§ 2, last sentence, as enacted by PL 1977, c. 225, § 2, is amended to read:

Such a person shall not be issued a license to carry a concealed firearm or other weapon pursuant to Title 25, section ~~2031~~ 2032.

Sec. 2. 25 MRSA § 2031, as last amended by PL 1975, c. 449, §§ 1 and 2, is repealed.

Sec. 3. 25 MRSA § 2031-A is enacted to read:

§ 2031-A. Definitions

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

1. **Concealed.** "Concealed" means hidden about the body or clothing of a person so as not to be within the normal view of others. It includes being hidden from view in such close proximity of the body as to be considered to be about the body and includes being hidden from view in the glove compartment or in other

parts of the passenger area of a motor vehicle, but does not include location or placement in the trunk or other nonpassenger areas of a motor vehicle.

2. **Convicted.** “Convicted” means having been found guilty of a violation of the criminal law in court of competent jurisdiction of this State, of any other state or of the United States. In no case shall the intention to appeal or the existence of an appeal from a conviction hold in abeyance the operation of this chapter.

3. **Firearm.** “Firearm” means any weapon, whether loaded or unloaded, which expels a projectile by the action of an explosive and includes any weapon commonly referred to as a pistol, revolver, rifle or shotgun. Any device which can be readily made into a firearm by the insertion of a firing pin or other similar thing in the actual possession of the person possessing the device is a firearm.

4. **Illegal use of drugs.** “Illegal use of drugs” means the possession, trafficking or furnishing of any schedule W, X or Y drug, as those schedules are established by Title 17-A, section 1102, subsections 1, 2 and 3, which is unlawful under the criminal laws of this State, of any other state or of the United States.

5. **Law enforcement officer.** “Law enforcement officer” means any person who by virtue of his public employment is vested by law with a duty to maintain public order, to prosecute offenses or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

6. **License.** “License” means a paper, properly completed and signed by the licensing authority, authorizing the holder of that paper to carry a concealed weapon.

7. **Licensee.** “Licensee” means a person whom a license to carry a concealed weapon has been issued.

8. **Licensing authority.** “Licensing authority” means the Chief of the State Police in the case of applications submitted by or licenses issued to nonresidents, and the chief of police, if any, in any municipality and the municipal officers in any municipality in the case of applications submitted by or licenses issued to residents of this State,

9. **Security services.** “Security services” means those services ordinarily performed by watchmen, guards or private patrolmen, including the protection of persons or property and the prevention of theft.

10. **Weapon.** “Weapon” means any firearm, loaded or unloaded, or any other device, instrument or article which is designed primarily to be used to harm human beings.

Sec. 4. 25 MRSA §§ 2032 - 2040-D are enacted to read:

§ 2032. Carrying of concealed weapons; license required

No person shall carry a concealed weapon unless that person has currently valid concealed weapon license issued pursuant to this chapter.

No license shall be issued authorizing the carrying of any weapon if the possession of that weapon is prohibited by any other provision of law.

§ 2033. Nonresident licenses

1. Chief of State Police; issuing authority; persons who may be licensed. The Chief of the State Police may, upon written application therefor, issue a license to carry a concealed weapon to a nonresident who:

- A. Is not subject to a municipal licensing authority under this chapter; and
 - (1) Is engaged in the business of or in the employ of a person, corporation, partnership or unincorporated association engaged in the business of transferring money; or
 - (2) Is employed by a public utility corporation.

2. Persons not to be licensed. A license to carry a concealed weapon may not be issued to:

- A. Persons under 18 years of age;
- B. Persons who have been convicted of a crime punishable by imprisonment for one year or more or of any crime involving the unlawful sale, possession or use of a firearm;
- C. Persons who have been convicted of illegal use of drugs;
- D. Persons who have been convicted of 3 or more violations of a statute which provides criminal penalties for assault;
- E. If the weapon to be licensed is a firearm, persons who are unable to provide proof that they possess sufficient skill and knowledge in the handling of firearms in accordance with such standards of proficiency as shall be adopted by the Chief of the State Police for the implementation of this paragraph;
- F. Persons who habitually lack self-control as to the use of alcoholic beverages or who use alcoholic beverages to the extent that their health is substantially impaired or endangered; or
- G. Persons who suffer from a mental defect or disorder.

3. Validity of license. This license shall be valid only during the working hours of the person to whom it is issued. All licenses issued pursuant to this section shall cease to be valid when the licensee leaves the employment of the employer who endorsed the application or when the licensee ceases to be engaged in the business of transferring money.

§ 2034. Resident licenses

1. Municipal issuing authority; persons who may be licensed. Subject to subsection 2, the licensing authority in a municipality may issue a license to carry a concealed weapon to a resident of the municipality who:

A. Performs security services in the employ of another or for himself in connection with the operation of a business. A license issued for this reason shall be valid only in the course of the performance of the security services;

B. Shows good reason to fear injury to himself or to a member of his immediate family or to his property; or

C. Holds a valid Maine hunting or fishing license, but then the concealed weapons license shall be valid only during those times and in those places as authorized under those provisions of Title 12 relating to hunting and shall authorize the carrying of a concealed weapon only when and in a manner consistent with Title 12, chapter 319.

2. Persons who may not be licensed. A license to carry a concealed weapon may not be issued to:

A. Persons under 18 years of age;

B. Persons who have been convicted of a crime punishable by imprisonment for one year or more or of any crime involving the unlawful sale, possession or use of a firearm;

C. Persons who have been convicted of illegal use of drugs;

D. Persons who have been convicted of 3 or more violations of a statute which provides criminal penalties for assault;

E. If the weapon to be licensed is a firearm, persons who are unable to provide the licensing authority with reasonable proof that they possess sufficient skill and knowledge in the handling of firearms in accordance with such standards of proficiency as shall be adopted by the Chief of the State Police for the implementation of this paragraph;

F. Persons who habitually lack self-control as to the use of alcoholic beverages to the extent that their health is substantially impaired or endangered; or

G. Persons who suffer from a mental defect or disorder.

§ 2035. Applications

The following conditions shall be fulfilled before the licensing authority is authorized to issue a license for a concealed weapon.

1. Applicant to file written application. An applicant for a concealed weapon license shall complete and submit to the licensing authority a written application on a form, the contents of which shall be prescribed by the Chief of the State Police in accordance with this chapter. The application shall be filed together with the fee prescribed by subsection 4 and shall designate specifically the weapon to be carried. If the applicant is a nonresident and is an employee of a person, firm or corporation engaged in the business of transferring money, his application shall

be endorsed by his employer. The applicant shall be required to submit one copy of his fingerprints together with his application.

2. Application to contain authorization. Each written application shall contain an authorization to be signed by the applicant which gives the licensing authority access to all military, medical and psychiatric records made or held by any public or private institution or agency, individual or practitioner. Information obtained from these records by the licensing authority shall be held in strict confidence by the authority. The licensing authority shall use this information only for determining the applicant's fitness to possess a concealed weapon license.

3. Investigation by licensing authority. The licensing authority or its representative shall formally investigate the criminal record of each applicant and a written report of this investigation shall be made. Notwithstanding Title 16, sections 601 to 607, the State Bureau of Identification shall disseminate to a licensing authority, upon request, the criminal history record information pertaining to an applicant for a concealed weapon license, except that criminal history record information, the dissemination of which is controlled by Title 16, section 603, shall not be disseminated to the licensing authority.

4. Fees. An applicant shall file with his application a \$15 fee which shall be nonrefundable.

§ 2036. License; term; renewal

1. License. A license issued pursuant to this chapter shall authorize the licensee to carry only the weapon described in the license. The licensing authority shall place upon every such license the date of issuance and the date of expiration, the name, age, sex, description and address of the licensee, a complete description of the weapon to be carried and a designation of the licensing authority.

2. Term. Except as provided in section 2034, subsection 1, paragraph C, the term of all concealed weapon licenses shall be for the remainder of the calendar year in which they are issued and for one additional year thereafter, unless:

A. The license is sooner revoked by the issuing licensing authority; or

B. In the case of a license issued pursuant to section 2033:

(1) The licensee leaves the employment of the employer who endorsed the application; or

(2) The licensee ceases to be engaged in the business of transferring money.

3. Renewal. When a concealed weapon license expires, the person to whom the license was issued shall reapply for a new license and that application shall be treated in the same manner as first applications under this chapter, including the payment of the application fee. No licensing authority shall be found by findings of

decisions of a previous licensing authority as to whether a particular applicant qualifies for a license.

§ 2037. Permanent record retained by licensing authority

The licensing authority shall maintain a separate and permanent file on each applicant for a concealed weapon license. This file shall contain at least the following information:

1. **Original application.** The applicant's original application for a concealed weapon license and all subsequent applications;
2. **Written reports.** Written reports of all investigations and recommendations made with respect to the applicant;
3. **Written statement.** A written statement by the licensing authority stating the reasons why the license was issued or denied;
4. **Date.** The date of issuance or denial of the license and if the license is issued, the date of its expiration; and
5. **Copy.** A copy of the original license, if issued, and all subsequent licenses.

The reports, documents and information included in subsection 2 are declared to be confidential.

§ 2038. Central repository

When a licensing authority has issued, renewed or revoked a license for a concealed weapon, the authority shall, within 5 days of the issuance, renewal or revocation, forward a copy of the license or notice of revocation to the Chief of the State Police who shall maintain a permanent file of the issuance, renewal and revocation of concealed weapon licenses issued in the State.

§ 2039. Geographical area

All licenses issued pursuant to this chapter shall authorize the licensee to carry the weapon designated on the license throughout the State.

§ 2040. Licensee to have license in possession; display on demand

A licensee shall have his license in his immediate possession at all times when carrying a concealed weapon and shall display that license upon the demand of any law enforcement officer. No person charged with failure to have his license in his immediate possession shall be convicted if he produces in court the license which was issued to him and which was valid at the time of the arrest or the issuance of a court summons. If the person charged shall exhibit to a law enforcement officer designated by the summoning or arresting officer, not later than 24 hours before the time set for the court appearance, a license issued to him and valid at the time of the arrest or the issuance of the summons, the complaint shall not issue.

§ 2040-A. Prohibitions not applicable to law enforcement officers or private detectives

Nothing in this chapter shall be construed to prohibit the carrying of concealed weapons by law enforcement officers or licensed private detectives.

§ 2040-B. Revocation of license

A licensing authority may, after notice and hearing, revoke a license issued by that authority if the licensee:

1. **Violates provisions.** Violates any of the provisions of this chapter; or
2. **No longer eligible.** Is no longer eligible for that license pursuant to sections 2033 or 2034.

Pending a hearing, the licensing authority may summarily suspend a license and order the license to be surrendered if the licensing authority has reason to believe that the licensee represents a danger to the public.

§ 2040-C. Appeals

Any person whose application for a concealed weapon license is denied, or any person whose concealed weapon license is revoked, may appeal the decision of the licensing authority to the Superior Court. If the decision being appealed was made by a municipal licensing authority, the complaint shall be filed in the Superior Court of the county in which the municipality is located. If the decision being appealed was made by the Chief of the State Police, the complaint shall be filed in the Superior Court of Kennebec County. Pending judgment of the court, the decision of the licensing authority in denying or revoking any license shall remain in full force and effect.

§ 2040-D. Penalty

Whoever violates any of the provisions of this chapter is guilty of a Class D crime.

STATEMENT OF FACT

This bill is intended to establish definite criteria to be met by applicants for concealed weapons permits. It provides for a central repository for all licenses issued and clearly defines terms used in conjunction with these provisions. It also sets out an appeal process for denial.