

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 399**

H. P. 351

House of Representatives, January 22, 1981

On Motion of Representative Hobbins of Saco, referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

Cosponsors: Representative Swazey of Bucksport, Representative Dexter of Kingfield and Representative Jacques of Waterville.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Amend the Law Regulating Concealed Weapons.**

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

**Sec. 1.** 15 MRSA § 392, as last amended by PL 1979, c. 127, § 115, is repealed.

**Sec. 2.** 25 MRSA § 2031, as last amended by PL 1975, c. 449, §§ 1 and 2, is repealed and the following enacted in its place:

**§ 2031. Carrying concealed weapons; licenses**

**1. Local authority issuance.** No person may wear under his clothes, or conceal about his person, any dangerous weapon; except the municipal officers of any city or town shall upon written applications issue to any legal resident of that city or town a certificate setting forth that the person has been duly licensed to carry the weapons mentioned in the certificate. The issuing authority may choose to require that the person certify in writing that the license is either:

**A.** Required for the personal safety and protection of the applicant; or

**B.** Required in connection with the employment of the applicant. In this case, the application and certificate shall be endorsed by the employer.

**The municipal officers may delegate this duty to the full-time chief law enforcement officer of the city or town.**

**2. Exclusions. In no case may a license be issued to any person who:**

**A. Is under 18 years of age;**

**B. Is currently charged with an offense under a criminal complaint or indictment;**

**C. Has been convicted of a Class A, B or C crime;**

**D. Has been convicted of a Class D or E crime and 5 years have not passed since the later of the date of conviction or the date of completion of a prison term;**

**E. Has been voluntarily or involuntarily committed to a mental institution or has received psychiatric inpatient services in a hospital, for a period greater than 2 weeks, and 5 years have not passed since the date of discharge;**

**F. Has been adjudicated to be an incapacitated person pursuant to Title 18-A, Article V, Parts 3 and 4, unless the court has issued an order that the person is no longer incapacitated under Title 18-A, section 5-307, subsection (b); or**

**G. Has been dishonorably discharged from the Armed Forces within 5 years before the date of application.**

**3. Domiciliaries of unorganized territories. If the applicant is a resident of the State and is domiciled in an unorganized territory, the license may be issued, using the requirements contained in subsection 1, by the municipal officers of any city, or of the town nearest to the unorganized territory, or, if these municipal officers do not issue the license, by the State Police.**

**4. Nonresident licenses. The Chief of the State Police or persons authorized by him shall, upon written application, issue to a nonresident, not falling within the local licensing authority, a concealed weapons' license valid only during working hours if:**

**A. The applicant is in the employ of:**

**(1) A public utility corporation; or**

**(2) A person, firm or corporation engaged in the business of transferring money or in a business of a similar nature; and**

**B. The application is endorsed by the applicant's employer. The license shall cease to be valid when the employee leaves the employment of the employer who endorsed the application.**

**5. Limitation. No concealed weapons licensee may carry a concealed weapon when on the premises of any establishment licensed to sell intoxicating liquor under Title 28, chapter 19.**

**6. Term. All licenses shall continue in effect to the end of the calendar year in which issued and for one year thereafter, unless sooner revoked by the Chief of the**

State Police, chief of police, or by the municipal officers of the city or town in which the license was issued.

7. Revocation. Licenses may be revoked by the issuing authority if the licensee is:

- A. Found to have knowingly and willfully given any false information of a material nature in connection with an application for a license; or
- B. Found to be in any position while the license is in effect which would be grounds for denial of an application for a license.

8. Records. The official issuing a license shall make a permanent record of it in a suitable book or file kept for that purpose. The record shall include:

- A. Date of issuance;
- B. The name, age, sex and street address of the licensee;
- C. A complete description of the weapon;
- D. In the case of firearms, the caliber, make and number; and
- E. A description of the licensee.

The descriptions shall be placed on the certificate. A copy of the license shall be sent to the State Bureau of Identification.

9. Exceptions from licensing requirements. This section shall not be construed as requiring a license for the carrying or wearing of weapons by law enforcement officers, as defined in Title 17-A, section 2, subsection 17, or private investigators, as defined in Title 32, section 6051, subsection 5. This exception shall not apply if the law enforcement officer or private investigator has been:

- A. Convicted of a Class A, B or C crime; or
- B. Convicted of a Class D or E crime and 5 years have not passed since the later of the date of conviction or the date of completion of a prison term.

10. Valid throughout the State. All licenses issued in accordance with this section shall authorize the person so licensed to carry the weapons throughout the State.

11. Possession of license. Every licensee shall have his license in his immediate possession at all times when carrying a concealed weapon and shall display the license upon demand of any law enforcement officer. No person charged with failure to have his license in his immediate possession while carrying a concealed weapon may be convicted if he produces in court a valid license. If the person so charged exhibits the license to a law enforcement officer designated by the summoning officer not later than 24 hours before the time set for the court appearance, then the complaint shall not be issued.

12. Violations. Violation of this section is a Class E crime.

13. Fees. A fee not to exceed \$25 may be assessed for an original permit application and a fee not to exceed \$10 may be assessed for a renewal, these fees to include any permit which is issued and all weapons which are included on the permit.

Sec. 3. 25 MRSA §§ 2032 and 2033 are enacted to read:

§ 2032. Definitions

For the purposes of this chapter, unless the context otherwise indicates, the following terms 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 so 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 interior area of a motor vehicle accessible to a seated passenger, but shall not include location or placement in the trunk or other areas of a motor vehicle not accessible to a seated passenger.

2. Convicted. "Convicted" means having been found guilty of a violation of the criminal law in a court of competent jurisdiction of this State, of any other state or 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 the provisions of this chapter.

3. Dangerous weapon. "Dangerous weapon" means:

A. A firearm; or

B. Any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade which opens or falls or is ejected into position by the force of gravity, or by an outward, downward or centrifugal thrust or movement.

§ 2033. Confidentiality of applications

Notwithstanding Title 1, sections 401 to 410, all applications and supporting documentation received pursuant to section 2031 shall be confidential and may not be made available for public inspection or copy.

STATEMENT OF FACT

The purposes of the bill are as follows:

1. Section 1 repeals Title 15, section 392, which currently exempts law enforcement officers and security guards from being subject to the statute on illegal possession of firearms.

2. Sections 2 and 3 amend the current concealed weapons statutes as follows.

- A.** Section 2 first directs municipal officers, or their designees, to issue concealed weapons licenses to residents of their town or city. The municipal officers may require the applicant to certify in writing that he needs the weapon for self defense or employment.
- B.** Subsection 2 sets forth 7 categories of persons who are not eligible for a concealed weapons license.
- C.** Subsection 3 allows the municipal officers of any city or town to issue licenses to domiciliaries of unorganized territories. If a license is not issued to an applicant by the municipal officers, he may apply to the State Police for a license.
- D.** Subsection 4 directs the State Police to issue licenses to nonresidents, using the same criteria as currently exist in the law.
- E.** Subsection 5 prohibits a concealed weapons licensee from carrying a concealed weapon where liquor is sold for on-premises consumption.
- F.** Subsection 6 describes the term of a license unless it is revoked under subsection 7.
- G.** Subsection 8 is similar to the record-keeping requirements of the current statute.
- H.** Subsection 9 excepts law enforcement officers and private investigators from concealed weapons licensing requirements unless the person has been convicted of a Class A, B or C crime, or has been convicted of or completed a prison term for a Class D or E crime within the last 5 years.
- I.** Subsections 10 to 12 are similar to provisions of the current statutes.
- J.** Subsection 13 sets forth license fees.
- K.** Section 3 contains 3 basic definitions. The definition of “dangerous weapon” limits the reach of this bill to firearms and certain types of knives described in Title 17-A, section 1055. Other weapons included in the current statutes are not covered by this bill.
- L.** Section 3 of the bill also provides for confidentiality of the application and all supporting documents submitted to obtain a license.