

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2005

6
7 H. P. 2060 House of Representatives, February 18, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

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

EDWIN H. PERT, Clerk

8 Presented by Representative M. Nelson of Portland.

Cosponsors: Representative Jackson of Yarmouth,
Representative Murphy of Kennebunk and Representative Gwadosky
of Fairfield.
9

10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 AN ACT to Amend the Concealed Weapons
16 Law.
17

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

19 **Sec. 1.** 25 MRSA c. 253, first 2 lines, are repealed
20 and the following enacted in their place:

21 PERMITS TO CARRY CONCEALED WEAPONS

22 **Sec. 2.** 25 MRSA §2031, sub-§1, as enacted by PL 1981,
23 c. 119, §1, is amended to read:

24 1. Persons possessing valid permit. Persons to whom a
25 permit to carry a concealed weapon has been issued possess-
26 ing a valid permit to carry concealed weapons as provided in
27 this chapter;

28 **Sec. 3.** 25 MRSA §2031, sub-§2, as enacted by PL 1981,
29 c. 119, §1, is repealed and the following enacted in its
30 place:

1 2. Law enforcement officers. All law enforcement
2 officers, as defined in Title 17-A, section 2, subsection
3 17, as follows:

4 A. Law enforcement officers employed with the reason-
5 able expectation of earning at least \$4,000 in any one
6 calendar or fiscal year for performing law enforcement
7 duties; and

8 B. Law enforcement officers, not within paragraph A,
9 when in the performance of their official duties.

10 Sec. 4. 25 MRSA §2032, sub-§1, ¶B, as enacted by PL
11 1981, c. 119, §2, is repealed and the following enacted in
12 its place:

13 B. Is not disqualified as a permit holder pursuant to
14 Title 15, section 393, subsections 1 and 2;

15 Sec. 5. 25 MRSA §2032, sub-§1, ¶B-1 is enacted to
16 read:

17 B-1. Has not been adjudicated as having committed a
18 juvenile offense involving conduct which, if committed
19 by an adult, would disqualify such adult as a permit
20 holder pursuant to Title 15, section 393, subsections 1
21 and 2;

22 Sec. 6. 25 MRSA §2032, sub-§1, ¶C, sub-¶(4), as
23 enacted by PL 1981, c. 119, §2, is amended to read:

24 (4) A record of previous denials for concealed
25 weapons' permits, for the information of the issu-
26 ing authority, such denials alone not constituting
27 cause for refusal issuances of, refusals to issue
28 and revocations of a permit to carry concealed
29 weapons by any issuing authority. The record of
30 previous refusals alone does not constitute cause
31 for refusal, and such record of previous
32 revocations alone constitutes cause for refusal
33 only as provided in section 2034;

34 Sec. 7. 25 MRSA §2032, sub-§1, ¶C, sub-¶(5), as
35 enacted by PL 1981, c. 119, §2, is repealed.

36 Sec. 8. 25 MRSA §2032, sub-§1, ¶C, sub-¶(6), as
37 enacted by PL 1981, c. 119, §2 is repealed and the following
38 enacted in its place:

1 (6) Answers to the following questions.

2 (a) Is there a complaint, indictment, infor-
3 mation or other formal criminal charge now
4 pending against you in this or any other
5 jurisdiction for a crime which is punishable
6 by one year or more imprisonment or for any
7 other crime alleged to have been committed by
8 you with the use of a dangerous weapon or of
9 a firearm against another person?

10 (b) Is there a juvenile petition or other
11 formal charging instrument now pending
12 against you in this or any other jurisdiction
13 for a juvenile offense which involves conduct
14 which, if committed by an adult, would be
15 punishable by one year or more imprisonment
16 or for any other juvenile offense alleged to
17 have been committed by you with the use of a
18 dangerous weapon or of a firearm against
19 another person?

20 (c) Have you ever been convicted of a crime
21 described in division (a) or adjudicated as
22 having committed a juvenile offense as de-
23 scribed in division (b)?

24 (d) Are you a fugitive from justice? As used
25 in this division "fugitive from justice" has
26 the same meaning as found in Title 15,
27 section 201, subsection 4.

28 (e) Are you an alcoholic, drug abuser, drug
29 addict, drug dependent person or a person in
30 need of assistance due to the use of a depen-
31 dependency related drug? As used in this division
32 "alcoholic," "drug abuser," "drug addict" and
33 "drug dependent person" have the same mean-
34 ings as found in Title 22, section 7103. A
35 "dependency related drug" means alcohol or
36 any drug named or described in Title 17-A,
37 section 1102, schedule W, X, Y or Z.

38 (f) Do you have a mental disorder which
39 causes you to be potentially dangerous to
40 yourself or others?

41 (g) Have you been adjudicated to be an inca-
42 pacitated person pursuant to Title 18-A,

1 Article V, Parts 3 and 4, and not had that
2 designation removed by an order under Title
3 18-A, section 5-307, subsection (b)?

4 (h) Have you been dishonorably discharged
5 from the military forces within the past 5
6 years?

7 (i) Are you an illegal alien?

8 Sec. 9. 25 MRSA §2032, sub-§1, ¶C, sub-¶(7) is enacted
9 to read:

10 (7) Does the following:

11 (a) At the behest of the issuing authority,
12 takes whatever action is required of him,
13 either by law or by practical necessity, to
14 allow such issuing authority to obtain from
15 private entities or governmental agencies
16 information relevant to the following:

17 (i) The ascertainment of whether the
18 information supplied on the application
19 or any documents made a part thereof is
20 true and correct;

21 (ii) The ascertainment of whether each
22 of the additional requirements of this
23 section has been met; and

24 (iii) section 2034;

25 (b) If the recipient of the professional
26 services of a psychologist or psychiatrist
27 within the past 5 years for a mental disorder,
28 submits with the application the name
29 and address of each such professional;

30 (c) If discharged from the military forces
31 within the past 5 years, submits with the
32 application a copy of his discharge order;

33 (d) If a photograph is an integral part of
34 the permit to carry concealed weapons adopted
35 by an issuing authority, submits to being
36 photographed for that purpose; and

1 (e) Submits an application fee not to exceed
2 \$15 in the case of an original application or
3 a reapplication following revocation and not
4 to exceed \$5 in the case of a renewal appli-
5 cation. The fee shall cover both the cost of
6 processing the application by the issuing
7 authority and the cost of the permit to carry
8 concealed weapons issued by the issuing
9 authority.

10 Sec. 10. 25 MRSA §2032, sub-§1, ¶¶'s D and E, as
11 enacted by PL 1981, c.119, §2, are repealed.

12 Sec. 11. 25 MRSA §2032, sub-§1-A is enacted to read:

13 1-A. Complete application; certification by appli-
14 cant. The requirements set out in subsection 1 constitute a
15 complete application. By affixing his signature to the
16 application, the applicant certifies the following.

17 A. The statements he makes therein, and any documents
18 he makes a part thereof, are true and correct.

19 B. He understands that an affirmative answer to any of
20 the questions in subsection 1, paragraph C,
21 subparagraph 6 is cause for refusal.

22 C. He understands that any false statements made in
23 the application or any documents made a part thereof
24 may result in prosecution as provided in section 2033.

25 Sec. 12. 25 MRSA §2032, sub-§3, as enacted by PL 1981,
26 c. 119, §2, is amended to read:

27 3. Good moral character. The issuing authority in
28 judging good moral character shall make its determination in
29 writing based upon evidence recorded by a governmental
30 entity. The issuing authority and shall consider matters
31 recorded of record occurring within the previous 5 years of
32 receipt of the application, including, but not limited to,
33 the following:

34 A. Records of Information of record relative to inci-
35 dents of abuse by the applicant of family or household
36 members, provided pursuant to Title 19, section 770,
37 subsection 1;

38 B. Records provided by the Department of Human Ser-
39 vices Information of record retained at and by the

1 Department of Human Services regarding the failure of
2 the applicant to meet child or family support obli-
3 gations;

4 C. Records of 3 Information of record relative to one
5 or more convictions of the applicant for Class D or
6 Class E crimes punishable by less than one year impris-
7 onment or one or more adjudications of the applicant
8 for juvenile offenses involving conduct which, if com-
9 mitted by an adult, would be punishable by less than
10 one year imprisonment;

11 D. Records of Information of record relative to 3 or
12 more adjudications of the applicant for civil viola-
13 tions by the applicant; or

14 E. Records Information of record, including
15 nonconviction data as defined in Title 16, section 611,
16 subsection 9, indicating that the applicant has engaged
17 in recklessness or negligence that endangered the
18 safety of others; including the use of weapons or motor
19 vehicles either consciously disregarding or failing to
20 be aware of a risk that his conduct would cause such a
21 result, engaged in voluntary conduct which in fact cre-
22 ated a substantial risk of death, serious bodily injury
23 or bodily injury to another human being and the appli-
24 cant's disregard or failure to be aware of that risk,
25 when viewed in light of the nature and purpose of the
26 applicant's conduct and the circumstances known to him,
27 involved a deviation from the standard of conduct that
28 a reasonable and prudent person would observe in the
29 same situation.

30 Sec. 13. 25 MRSA §2032, sub-§3-A is enacted to read:

31 3-A. Access to confidential records. Notwithstanding
32 that certain records retained by governmental agencies are
33 by statute made confidential, the records which are neces-
34 sary to the issuing authority's determination of the appli-
35 cant's good moral character and compliance with the addi-
36 tional requirements of this section and of section 2034
37 shall, at the request of the issuing authority, be made
38 available for inspection by and dissemination to the issuing
39 authority.

40 Sec. 14. 25 MRSA §2032, sub-§7, as enacted by PL 1981,
41 c. 119, §2, is amended to read:

1 7. Information contained in permit. Each permit to
2 carry concealed weapons issued shall contain the following:
3 the The name, address and physical description of the appli-
4 cant permit holder, the holder's signature, the date of
5 issuance and the date of expiration. A permit to carry con-
6 cealed weapons may additionally contain a photograph of the
7 permit holder if the issuing authority makes a photograph an
8 integral part of the permit to carry concealed weapons.

9 **Sec. 15. 25 MRSA §2032, sub-§11, as enacted by PL**
10 **1981, c. 119, §2, is repealed and the following enacted in**
11 **its place:**

12 11. Time within which permit is to be issued or
13 refused. The time within which a permit to carry concealed
14 weapons is to be issued or refused by the issuing authority
15 shall be as follows.

16 A. As regards any original application or reapplica-
17 tion following revocation submitted by a person not a
18 resident of this State, the issuing authority shall
19 issue or refuse to issue a permit within 90 days of the
20 date the application is received by the issuing author-
21 ity.

22 B. As regards any renewal application submitted by a
23 person not a resident of this State, the issuing
24 authority shall issue or refuse to issue a permit
25 within 45 days of the date the application is received
26 by the issuing authority.

27 C. As regards any original application or reapplica-
28 tion following revocation submitted by a resident of
29 this State, the issuing authority shall issue or refuse
30 to issue a permit within 45 days of the date the appli-
31 cation is received by the issuing authority.

32 D. As regards any renewal application submitted by a
33 resident of this State, the issuing authority shall
34 issue or refuse to issue a permit within 30 days of the
35 date the application is received by the issuing author-
36 ity.

37 Any refusal by the issuing authority to issue a permit to
38 carry concealed weapons shall be in writing and shall iden-
39 tify with particularity the reasons for the refusal.

40 **Sec. 16. 25 MRSA §2033, as enacted by PL 1981, c. 119,**
41 **§2, is repealed and the following enacted in its place:**

1 §2033. Penalty

2 Whoever intentionally or knowingly makes any false
3 statement in the application or any documents made a part
4 thereof or violates any provision of section 2031 is guilty
5 of a Class D crime.

6 **Sec. 17.** 25 MRSA §2034, as enacted by PL 1981, c. 119,
7 §2, is repealed and the following enacted in its place:

8 §2034. Revocation; change of residence

9 1. Revocation. The issuing authority shall revoke a
10 permit on the bases of one or more of the following determi-
11 nations:

12 A. The application or any documents made a part
13 thereof contained a material misstatement;

14 B. The permit holder has been convicted of a violation
15 of section 2031; or

16 C. The permit holder becomes ineligible to possess a
17 permit under this chapter.

18 2. Change of residence. Notwithstanding subsection 1,
19 paragraph C, a permit issued under this chapter shall not be
20 revocable solely because the permit holder changes his legal
21 residence during the term of the permit. The permit
22 holder's application for renewal from the issuing authority
23 of this new legal residence shall be treated as an original
24 application for the purposes of this chapter.

25 3. Time for renewal. An application for a permit
26 received within 90 days of the date of expiration of a
27 previously issued permit shall be treated by the issuing
28 authority as a renewal application, provided that the issu-
29 ing authority issued the previous permit.

30 4. Reapplication. No person, otherwise eligible, who
31 has had a permit revoked, is eligible for reapplication
32 until the expiration of 5 years from the date of revocation.

33 **Sec. 18.** 25 MRSA §2035, as enacted by PL 1981, c. 119,
34 §2, is amended to read:

35 §2035. Confidentiality of application; penalty

