

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1 (New Draft of H.P. 2060, L.D. 2005)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TENTH LEGISLATURE  
5

6 **Legislative Document**

**No. 2110**

7  
8  
9 H. P. 2262 House of Representatives, March 30, 1982  
Reported by the Minority from the Committee on Legal Affairs. Sent  
up for concurrence and ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

10  
11 STATE OF MAINE  
12

13 IN THE YEAR OF OUR LORD  
14 NINETEEN HUNDRED AND EIGHTY-TWO  
15

16 AN ACT to Amend the Concealed Weapons  
17 Law.  
18

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

20 Sec. 1. 25 MRSA c. 253, 2nd line, is repealed and the  
21 following enacted in its place:

22 PERMITS TO CARRY CONCEALED WEAPONS

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

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

29 Sec. 3. 25 MRSA §2031, sub-§2, as enacted by PL 1981,  
30 c. 119, §1, is amended to read:

1        2. Law enforcement officers. Law enforcement officers  
2 within their area of jurisdiction while in performance of  
3 their official duties and at such other times and places as  
4 may by law be provided, or as may be required or permitted  
5 by written authority of the chief executive officer of their  
6 employing agency issuing authority; or

7        Sec. 4. 25 MRSA §2031-A is enacted to read:

8        §2031-A Definitions

9        As used in this chapter, unless the context otherwise  
10 indicates, the following terms have the following meanings:

11        1. Alcoholic. "Alcoholic" means a person who habit-  
12 ually lacks self-control as to the use of alcoholic bever-  
13 ages, or uses alcoholic beverages to the extent that his  
14 health is substantially impaired or endangered.

15        2. Dependency related drug. "Dependency related drug"  
16 means alcohol or any drug named or described in Title 17-A,  
17 section 1102, schedule W, X, Y or Z.

18        3. Drug abuser. "Drug abuser" means a person who uses  
19 any drugs, dependency related drugs or hallucinogens in  
20 violation of any law of the State.

21        4. Drug addict. "Drug addict" means a drug dependent  
22 person who, due to the use of a dependency related drug has  
23 developed such a tolerance thereto that abrupt termination  
24 of the use thereof would produce withdrawal symptoms.

25        5. Drug dependent person. "Drug dependent person"  
26 means any person who is unable to function effectively and  
27 whose inability to do so causes or results from the use of a  
28 dependency related drug.

29        6. Formal charging instrument. "Formal charging  
30 instrument" means a complaint, indictment, information,  
31 juvenile petition or other formal written accusation against  
32 a person for some criminal or juvenile offense.

33        7. Fugitive from justice. "Fugitive from justice"  
34 means:

35        A. Any person accused of a crime in the demanding  
36 state who is not in that state, unless he is lawfully  
37 absent pursuant to the terms of his bail or other  
38 release. This definition shall include both a person  
39 who was present in the demanding state at the time of

1 the commission of the alleged crime and thereafter left  
2 the demanding state and a person who committed an act  
3 in this State or in a 3rd state or elsewhere resulting  
4 in or constituting a crime in the demanding state; or

5 B. Any person convicted of a crime in the demanding  
6 state who is not in that state, unless he is lawfully  
7 absent pursuant to the terms of his bail or other  
8 release, who has not served or completed a sentence  
9 imposed pursuant to the conviction. This definition  
10 shall include, but not be limited to, a person who has  
11 been released pending appeal or other review of the  
12 conviction, the review having been completed; a person  
13 who has been serving a sentence in this State; a person  
14 who has escaped from confinement in the demanding  
15 state; or a person who has broken the terms of his  
16 bail, probation or parole.

17 8. Issuing authority. "Issuing authority" means the  
18 mayor and aldermen or councillors of a city, the selectmen  
19 or councillors of a town, or the assessors of a plantation  
20 or if they so choose, their full-time chief of police as  
21 their designee.

22 9. Law enforcement officer. "Law enforcement officer"  
23 means any person who by virtue of his public employment is  
24 vested by law with a duty to maintain public order, to  
25 prosecute offenders or to make arrests for crimes, whether  
26 that duty extends to all crimes or is limited to specific  
27 crimes.

28 10. Reckless or negligent conduct. "Reckless or  
29 negligent conduct" means that the applicant, either con-  
30 sciously disregarding or failing to be aware of a risk that  
31 his conduct would cause such a result, engaged in conduct  
32 which in fact created a substantial risk of death, serious  
33 bodily injury or bodily injury to another human being and  
34 the applicant's disregard or failure to be aware of that  
35 risk, when viewed in light of the nature and purpose of the  
36 applicant's conduct and the circumstances known to him,  
37 involved a deviation from the standard of conduct that a  
38 reasonable and prudent person would observe in the same  
39 situation.

40 Sec. 5. 25 MRSA §2032, sub-§1, first ¶, as enacted by  
41 PL 1981, c. 119, §2, is repealed and the following enacted  
42 in its place:

43 1. Criteria for issuing permit. The issuing authority  
44 shall, upon written application therefor, issue a permit to

1 carry concealed weapons to any legal resident of that munic-  
2 ipality who has demonstrated good moral character and who  
3 meets the following requirements:

4       **Sec. 6.** 25 MRSA §2032, sub-§1, ¶B, as enacted by PL  
5 1981, c. 119, §2, is repealed and the following enacted in  
6 its place:

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

9       **Sec. 7.** 25 MRSA §2032, sub-§1, ¶B-1 is enacted to  
10 read:

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

16       **Sec. 8.** 25 MRSA §2032, sub-§1, ¶C, sub-¶(4), as  
17 enacted by PL 1981, c. 119, §2, is amended to read:

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

28       **Sec. 9.** 25 MRSA §2032, sub-§1, ¶C, sub-¶(5), as  
29 enacted by PL 1981, c. 119, §2, is repealed.

30       **Sec. 10.** 25 MRSA §2032, sub-§1, ¶C, sub-¶(6), as  
31 enacted by PL 1981, c. 119, §2, is repealed and the follow-  
32 ing enacted in its place:

33       (6) Answers to the following questions.

34       (a) Is there a formal charging instrument  
35 now pending against you in this or any other  
36 jurisdiction for a crime which is punishable  
37 by one year or more imprisonment or for any  
38 other crime alleged to have been committed by  
39 you with the use of a dangerous weapon or of  
40 a firearm against another person?

1 (b) Is there a formal charging instrument  
2 now pending against you in this or any other  
3 jurisdiction for a juvenile offense which  
4 involves conduct which, if committed by an  
5 adult, would be punishable by one year or  
6 more imprisonment or for any other juvenile  
7 offense alleged to have been committed by you  
8 with the use of a dangerous weapon or of a  
9 firearm against another person?

10 (c) Have you ever been convicted of a crime  
11 described in division (a) or adjudicated as  
12 having committed a juvenile offense as de-  
13 scribed in division (b)?

14 (d) Are you a fugitive from justice?

15 (e) Are you an alcoholic, drug abuser, drug  
16 addict, drug dependent person or a person in  
17 need of assistance due to the use of a depen-  
18 ency related drug?

19 (f) Do you have a mental disorder which  
20 causes you to be potentially dangerous to  
21 yourself or others?

22 (g) Have you been adjudicated to be an inca-  
23 pacitated person pursuant to Title 18-A,  
24 Article V, Parts 3 and 4, and not had that  
25 designation removed by an order under Title  
26 18-A, section 5-307, subsection (b)?

27 (h) Have you been dishonorably discharged  
28 from the military forces within the past 5  
29 years?

30 (i) Are you an illegal alien?

31 Sec. 11. 25 MRSA §2032, sub-§1, ¶C, sub-¶(7) is  
32 enacted to read:

33 (7) Does the following:

34 (a) At the behest of the issuing authority,  
35 takes whatever action is required of him,  
36 either by law or by practical necessity, to  
37 allow such issuing authority to obtain from  
38 governmental entities information relevant to  
39 the following:

1 (i) The ascertainment of whether the  
2 information supplied on the application  
3 or any documents made a part thereof is  
4 true and correct;

5 (ii) The ascertainment of whether each  
6 of the additional requirements of this  
7 section has been met; and

8 (iii) section 2034;

9 (b) If discharged from the military forces  
10 within the past 5 years, submits with the  
11 application a copy of his discharge order;

12 (c) If a photograph is an integral part of  
13 the permit to carry concealed weapons adopted  
14 by an issuing authority, submits to being  
15 photographed for that purpose;

16 (d) If it becomes necessary to resolve any  
17 questions as to his identity, submits to hav-  
18 ing his fingerprints taken by the issuing  
19 authority; and

20 (e) Submits an application fee not to exceed  
21 \$15 for a resident of the State, in the case  
22 of an original application or a reapplication  
23 following revocation and not to exceed \$5 for  
24 a resident in the case of a renewal applica-  
25 tion. The fee shall cover both the cost of  
26 processing the application by the issuing  
27 authority and the cost of the permit to carry  
28 concealed weapons issued by the issuing  
29 authority.

30 **Sec. 12.** 25 MRSA §2032, sub-§1, ¶¶'s D and E, as  
31 enacted by PL 1981, c. 119, §2, are repealed.

32 **Sec. 13.** 25 MRSA §2032, sub-§1-A is enacted to read:

33 1-A. Complete application; certification by appli-  
34 cant. The requirements set out in subsection 1 constitute a  
35 complete application. By affixing his signature to the  
36 application, the applicant certifies the following.

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

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

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

7 **Sec. 14. 25 MRSA §2032, sub-§3, as enacted by PL 1981,**  
8 **c. 119, §2, is amended to read:**

9 3. Good moral character. The issuing authority in  
10 judging good moral character shall make its determination in  
11 writing based solely upon evidence information recorded by a  
12 governmental entity. entities The issuing authority shall  
13 consider matters recorded within the previous 5 years of  
14 receipt of the application, including, but not limited as  
15 to, the following matters:

16 A. Records of Information of record relative to inci-  
17 idents of abuse by the applicant of family or household  
18 members, provided pursuant to Title 19, section 770,  
19 subsection 1;

20 B. Records provided Information of record retained at  
21 and by the Department of Human Services regarding the  
22 failure of the applicant to meet child or family sup-  
23 port obligations;

24 C. Records of Information of record relative to 3 or  
25 more convictions of the applicant for Class D or Class  
26 E crimes punishable by less than one year imprisonment  
27 or one or more adjudications of the applicant for juve-  
28 nile offenses involving conduct which, if committed by  
29 an adult, would be punishable by less than one year  
30 imprisonment;

31 D. Records of Information of record relative to 3 or  
32 more adjudications of the applicant for civil viola-  
33 tions by the applicant; or

34 E. Records Information of record indicating that the  
35 applicant has engaged in recklessness or negligence  
36 that endangered the safety of others, including the use  
37 of weapons or motor vehicles reckless or negligent con-  
38 duct.

39 **Sec. 15. 25 MRSA §2032, sub-§3-A is enacted to read:**



1        3-A. Access to confidential records. Notwithstanding  
2 that certain records retained by governmental entities are  
3 by statute made confidential, the records which are neces-  
4 sary to the issuing authority's determination of the appli-  
5 cant's good moral character and compliance with the addi-  
6 tional requirements of this section and of section 2034  
7 shall, at the request of the issuing authority, be made  
8 available for inspection by and dissemination to the issuing  
9 authority.

10        **Sec. 16. 25 MRSA §2032, sub-§4, as enacted by PL 1981,**  
11 **c. 119, §2, is amended to read:**

12        4. Unorganized territory. Any resident of an unorgan-  
13 ized territory shall make an written application to the  
14 appropriate issuing authority in any municipality nearest  
15 the unorganized territory and the application, fees fee and  
16 permit provisions of this section shall apply.

17        **Sec. 17. 25 MRSA §2032, sub-§5, as enacted by PL 1981,**  
18 **c. 119, §2, is amended to read:**

19        5. Nonresident. Any nonresident who meets the re-  
20 quirements of this section shall make an written application  
21 to the Chief of the Maine State Police and the application,  
22 fees fee and permit provisions of this section shall apply,  
23 except that application fees for nonresidents shall not  
24 exceed \$30 in the case of an original application or a reap-  
25 plication following revocation and shall not exceed \$15 in  
26 the case of a renewal application. The necessary expenses  
27 of administering this chapter, as it applies to nonresi-  
28 dents, shall be paid out of the fees received under this  
29 section.

30        **Sec. 18. 25 MRSA §2032, sub-§7, as enacted by PL 1981,**  
31 **c. 119, §2, is amended to read:**

32        7. Information contained in permit. Each permit to  
33 carry concealed weapons issued shall contain the following:  
34 the The name, address and physical description of the appli-  
35 cant permit holder, the holder's signature, the date of  
36 issuance and the date of expiration. A permit to carry con-  
37 cealed weapons may additionally contain a photograph of the  
38 permit holder if the issuing authority makes a photograph an  
39 integral part of the permit to carry concealed weapons.

40        **Sec. 19. 25 MRSA §2032, sub-§10, as enacted by PL**  
41 **1981, c. 119, §2, is repealed.**

1           **Sec. 20.** 25 MRSA §2032, sub-§11, as enacted by PL  
2 1981, c. 119, §2, is repealed and the following enacted in  
3 its place:

4           11. Time within which permit is to be issued or  
5 refused. The time within which a permit to carry concealed  
6 weapons is to be issued or refused by the issuing authority  
7 shall be as follows.

8           A. As regards any original application or reapplica-  
9 tion following revocation submitted by a person not a  
10 resident of this State, the issuing authority shall  
11 issue or refuse to issue a permit within 90 days of the  
12 date the application is received by the issuing author-  
13 ity.

14           B. As regards any renewal application submitted by a  
15 person not a resident of this State, the issuing  
16 authority shall issue or refuse to issue a permit  
17 within 45 days of the date the application is received  
18 by the issuing authority.

19           C. As regards any original application, renewal appli-  
20 cation or reapplication following revocation submitted  
21 by a resident of this State, the issuing authority  
22 shall issue or refuse to issue a permit within 30 days  
23 of the date the application is received by the issuing  
24 authority.

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

28           **Sec. 21.** 25 MRSA §2033, as enacted by PL 1981, c. 119,  
29 §2, is repealed and the following enacted in its place:

30 §2033. Penalty

31           Whoever intentionally or knowingly makes any false  
32 statements in the written application or any documents made  
33 a part thereof or violates any provision of section 2031 is  
34 guilty of a Class D crime.

35           Whoever fails to comply with the provision of section  
36 2032, subsection 9 commits a civil violation for which a  
37 forfeiture of not more than \$100 may be adjudged.

38           Whoever intentionally or knowingly violates the confi-  
39 dentiality provisions of section 2035 is guilty of a Class E  
40 crime.

1           Sec. 22. 25 MRSA §2034, as enacted by PL 1981, c. 119,  
2 §2, is repealed and the following enacted in its place:

3 §2034. Revocation; change of residence

4           1. Revocation. The issuing authority shall revoke a  
5 permit on the bases of one or more of the following determi-  
6 nations:

7           A. The application or any documents made a part  
8 thereof contained a material misstatement;

9           B. The permit holder has been convicted of a violation  
10 of section 2031; or

11           C. The permit holder becomes ineligible to possess a  
12 permit under this chapter.

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

20           3. Time for renewal. An application for a permit  
21 received within 90 days of the date of expiration of a  
22 previously issued permit shall be treated by the issuing  
23 authority as a renewal application, provided that the issu-  
24 ing authority issued the previous permit.

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

28           Sec. 23. 25 MRSA §2035, as enacted by PL 1981, c. 119,  
29 §2, is amended to read:

30 §2035. Confidentiality of application; penalty

31           Notwithstanding Title 1, sections 401 to 410, all  
32 applications, for a permit to carry concealed weapons and  
33 documents made a part thereof, refusals and supporting docu-  
34 mentation received pursuant to section 2032 any information  
35 of record collected by the issuing agency during the process  
36 of ascertaining whether an applicant is of good moral char-  
37 acter and meets the additional requirements of sections 2032  
38 and 2034, are confidential and may not be made available for  
39 public inspection or copying. The individual applicant may

1 waive this confidentiality by written notice to the issuing  
2 authority. All proceedings relating to the grant, denial or  
3 revocation of permits issuance, refusal or revocation of a  
4 permit to carry concealed weapons are not public proceedings  
5 under Title 1, chapter 13, unless otherwise requested by the  
6 applicant.

7 The issuing authority shall make a permanent record of  
8 each license permit to carry concealed weapons in a suitable  
9 book or file kept for that purpose. The record shall include  
10 the date of issuance, the name, age, sex and street address  
11 of the licensee the information contained in the permit  
12 itself, and shall be available for public inspection.

### 13 STATEMENT OF FACT

14 This new draft effects a number of changes in the law  
15 governing concealed weapons. These changes are meant to  
16 clarify the law to facilitate its prompt and equitable  
17 administration. Taking it by section, the bill does the  
18 following:

19 Section 1 changes the chapter title from "Licenses" to  
20 "Permits," to reflect the terminology used in the rest of  
21 the law.

22 Section 2 reflects the fact that, in order to be exempt  
23 from prosecution for carrying a weapon concealed, the person  
24 must have a currently valid permit. Under the present law  
25 it is conceivable that a person who has had his permit  
26 revoked would nonetheless be exempt from prosecution.

27 Section 3 clarifies an ambiguity in the law governing  
28 police officers' authorization to carry concealed weapons.

29 Section 4 enacts a definitional section that sets out  
30 the actual meaning of terms used throughout the law. These  
31 definitions originate in other parts of the law, such as the  
32 Revised Statutes, Title 17-A and 22. Since the applicant for  
33 a permit, under the Revised Statutes, Title 25, section  
34 2032, subsection 2, is provided a copy of the law, this  
35 information will be available to him.

36 Section 5 removes language defining "issuing author-  
37 ity," since that term is now defined in the general defini-  
38 tions section, and changes the headnote from "municipal  
39 officers" to "criteria for issuing permit," since that is  
40 the substance of the subsection.

1 Section 6 refers to a provision in the Revised Stat-  
2 utes, Title 15 which governs possession of firearms by per-  
3 sons convicted of certain crimes.

4 Section 7 allows consideration of certain particularly  
5 serious juvenile offenses in the permit issuance process.

6 Section 8 provides the issuing authority with pertinent  
7 information concerning prior permit issuances and  
8 revocations, as well as denials.

9 Section 9 repeals a provision which is replaced in  
10 section 11 of the bill.

11 Section 10 revises the questions to be asked of an  
12 applicant for a permit. The questions are rewritten to cure  
13 certain ambiguities in their legal implications and to  
14 include certain juvenile offenses.

15 Section 11 outlines the duties of the applicant aside  
16 from completing the application. These include taking  
17 reasonable measures to assist the issuing authority in  
18 verifying the accuracy of his answers and submitting the  
19 application fee.

20 Section 12 repeals provisions which are replaced else-  
21 where.

22 Section 13 reallocates and clarifies present law.

23 Section 14 clarifies the criteria for determining good  
24 moral character. An important change is made in limiting  
25 the issuing authority's discretion to consideration of just  
26 the records listed. This addresses concerns that have been  
27 expressed over the additional permit requirements made by  
28 some municipalities under the present law.

29 Section 15 assures that issuing authorities have access  
30 to the information they require in order to decide on an  
31 application.

32 Section 16 clarifies language to make it consistent.

33 Section 17 clarifies the procedure for nonresidents and  
34 increases the fees for nonresidents to reflect the higher  
35 costs of processing these applications.

36 Section 18 requires the permit to show the holder's  
37 signature and the dates of issuance and expiration, in addi-  
38 tion to present requirements.

