

MAINE STATE LEGISLATURE

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L.D. 819
(Filing No. S-194)

STATE OF MAINE
SENATE
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 331, L.D. 819,
Bill, "AN ACT to Amend the Concealed Weapons Law."

Amend the Bill by striking out all of sections 2
and 3 and inserting in their place the following:

'Sec. 2. 25 MRSA c. 252 is enacted to read:

CHAPTER 252

PERMITS TO CARRY CONCEALED FIREARMS

§2001. Threatening display of or carrying a concealed weapon

No person may display in a threatening manner, or wear under his clothes or conceal about his person, any firearm, slung shot, knuckles, bowie knife, dirk, stiletto or other dangerous or deadly weapons usually employed in the attack on or defense of a person, unless excepted by a provision of law.

The provisions of this section concerning the carrying of concealed weapons do not apply to:

1. Permit issued. Persons to whom a valid permit to carry a concealed firearm has been issued as provided in this chapter;

2. Disabling chemicals. Disabling chemicals as described in Title 17-A, section 1002;

3. Hunting knives. Knives used for the purposes of hunting, fishing or trapping as defined in Title 12, section 7001;

4. Law enforcement officers and corrections of-

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1 ficers. Law enforcement officers and corrections of-
2 ficers as permitted in writing by their employer; or

3 5. Private investigators. Private investigators
4 licensed under the laws of this State.

5 §2002. Definitions

6 As used in this chapter, unless the context oth-
7 erwise indicates, the following terms have the fol-
8 lowing meanings.

9 1. Corrections officer. "Corrections officer"
10 has the same meaning as set forth in section 2805,
11 subsection 2, paragraph C, subparagraph (1).

12 2. Dependency related drug. "Dependency related
13 drug" has the same meaning as set forth in Title 22,
14 section 7103, subsection 7.

15 3. Drug abuser. "Drug abuser" has the same
16 meaning as set forth in Title 22, section 7103, sub-
17 section 9.

18 4. Drug addict. "Drug addict" has the same
19 meaning as set forth in Title 22, section 7103, sub-
20 section 11.

21 5. Drug dependent person. "Drug dependent per-
22 son" has the same meaning as set forth in Title 22,
23 section 7103, subsection 12.

24 6. Firearm. "Firearm" has the same meaning as
25 set forth in Title 17-A, section 2, subsection 12-A.

26 7. Formal charging instrument. "Formal charging
27 instrument" means a complaint, indictment, informa-
28 tion, juvenile petition or other formal written accu-
29 sation against a person for some criminal or juvenile
30 offense.

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1 8. Fugitive from justice. "Fugitive from jus-
2 tice" has the same meaning as set forth in Title 15,
3 section 201, subsection 4.

4 9. Issuing authority. "Issuing authority" means
5 the mayor and aldermen or councilors of a city, the
6 selectmen or councilors of a town or the assessors of
7 a plantation or, if they so choose, their full-time
8 chief of police as their designee.

9 10. Law enforcement officer. "Law enforcement
10 officer" has the same meaning as set forth in Title
11 17-A, section 2, subsection 17.

12 12. Reckless or negligent conduct. "Reckless or
13 negligent conduct" means that the applicant, either
14 consciously disregarding or failing to be aware of a
15 risk that his conduct would cause such a result, en-
16 gaged in conduct which in fact created a substantial
17 risk of death, serious bodily injury or bodily injury
18 to another human being and the applicant's disregard
19 or failure to be aware of that risk, when viewed in
20 light of the nature and purpose of the applicant's
21 conduct and the circumstances known to him, involved
22 a deviation from the standard of conduct that a rea-
23 sonable and prudent person would observe in the same
24 situation.

25 §2003. Permits to carry concealed firearms

26 1. Criteria for issuing permit. The issuing au-
27 thority shall, upon written application, issue a per-
28 mit to carry concealed firearms to any legal resident
29 of that municipality who has demonstrated good moral
30 character and who meets the following requirements:

31 A. Is 18 years of age or older;

32 B. Is not disqualified as a permit holder pursu-
33 ant to Title 15, section 393, subsections 1 and
34 2;

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1 C. Has not been adjudicated as having committed
2 a juvenile offense involving conduct which, if
3 committed by an adult, would disqualify such
4 adult as a permit holder pursuant to Title 15,
5 section 393, subsections 1 and 2;

6 D. Submits an application which contains the
7 following:

8 (1) Full name;

9 (2) Full current address and addresses for
10 the prior 5 years;

11 (3) The date and place of birth, height,
12 weight and color of eyes;

13 (4) A record of previous issuances of, re-
14 fusals to issue and revocations of a permit
15 to carry concealed firearms by any issuing
16 authority. The record of previous refusals
17 alone does not constitute cause for refusal
18 and the record of previous revocations alone
19 constitutes cause for refusal only as pro-
20 vided in section 2005; and

21 (5) Answers the following questions:

22 (a) Is there a formal charging instru-
23 ment now pending against you in this or
24 any other jurisdiction for a crime
25 which is punishable by one year or more
26 imprisonment or for any other crime al-
27 leged to have been committed by you
28 with the use of a dangerous weapon, as
29 defined in Title 17-A, section 2, sub-
30 section 9, or of a firearm against an-
31 other person?

32 (b) Is there a formal charging instru-
33 ment now pending against you in this or
34 any other jurisdiction for a juvenile

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1 offense which involves conduct which,
2 if committed by an adult, would be pun-
3 ishable by one year or more imprison-
4 ment or for any other juvenile offense
5 alleged to have been committed by you
6 with the use of a dangerous weapon, as
7 defined in Title 17-A, section 2, sub-
8 section 9, or of a firearm against an-
9 other person?

10 (c) Have you ever been convicted of a
11 crime described in division (a) or ad-
12 judicated as having committed a juve-
13 nil offense as described in division
14 (b)?

15 (d) Are you a fugitive from justice?

16 (e) Are you a drug abuser, drug addict
17 or drug dependent person?

18 (f) Do you have a mental disorder
19 which causes you to be potentially dan-
20 gerous to yourself or others?

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

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

30 (i) Are you an illegal alien?

31 E. Does the following:

32 (1) At the request of the issuing authori-
33 ty, takes whatever action is required of him

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1 by law to allow the issuing authority to ob-
2 tain from the Department of Mental Health
3 and Mental Retardation, limited to records
4 of patient committals to Augusta Mental
5 Health Institute and Bangor Mental Health
6 Institute, the courts, law enforcement agen-
7 cies and the military information relevant
8 to the following:

9 (a) The ascertainment of whether the
10 information supplied on the application
11 or any documents made a part of the ap-
12 plication is true and correct;

13 (b) The ascertainment of whether each
14 of the additional requirements of this
15 section has been met; and

16 (c) Section 2005;

17 (2) If a photograph is an integral part of
18 the permit to carry concealed firearms
19 adopted by an issuing authority, submits to
20 being photographed for that purpose;

21 (3) If it becomes necessary to resolve any
22 questions as to his identity, submits to
23 having his fingerprints taken by the issuing
24 authority; and

25 (4) Submits an application fee not to ex-
26 ceed \$20 for an original application and \$10
27 for a renewal for a resident of the State.
28 The fee shall cover both the cost of pro-
29 cessing the application by the issuing au-
30 thority and the cost of the permit to carry
31 concealed firearms issued by the issuing au-
32 thority.

33 2. Complete application; certification by appli-
34 cant. The requirements set out in subsection 1, con-
35 stitute a complete application. By affixing his sig-

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1 nature to the application, the applicant certifies
2 the following:

3 A. That the statements he makes in the applica-
4 tion and any documents he makes a part of the ap-
5 plication, are true and correct;

6 B. That he understands an affirmative answer to
7 any of the questions in subsection 1, paragraph
8 D, subparagraph (5), except the questions in di-
9 visions (a) and (b), is cause for refusal; and

10 C. That he understands any false statements made
11 in the application or any document made a part of
12 the application may result in prosecution as pro-
13 vided in section 2004.

14 3. Copy of laws furnished to applicant. A copy
15 of this chapter and the definitions from other chap-
16 ters which are used in this chapter shall be pro-
17 vided to every applicant.

18 4. Good moral character. The issuing authority
19 in judging good moral character shall make its deter-
20 mination in writing based solely upon information re-
21 corded by governmental entities within 5 years of re-
22 ceipt of the application, including, but not limited
23 to, the following matters:

24 A. Information of record relative to incidents
25 of abuse by the applicant of family or household
26 members, provided pursuant to Title 19, section
27 770, subsection 1;

28 B. Information of record relative to 3 or more
29 convictions of the applicant for crimes punish-
30 able by less than one year imprisonment or one or
31 more adjudications of the applicant for juvenile
32 offenses involving conduct which, if committed by
33 an adult, is punishable by less than one year im-
34 prisonment; or

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1 C. Information of record indicating that the ap-
2 plicant has engaged in reckless or negligent con-
3 duct.

4 5. Access to confidential records. Notwith-
5 standing that certain records retained by governmen-
6 tal entities are by law made confidential, the
7 records pertaining to patient committals to Augusta
8 Mental Health Institute and Bangor Mental Health In-
9 stitute, and records compiled pursuant to Title 19,
10 section 770, subsection 1, which are necessary to the
11 issuing authority's determination of the applicant's
12 good moral character and compliance with the addi-
13 tional requirements of this section and of section
14 2005 shall, at the request of the issuing authority,
15 be made available for inspection by and dissemination
16 to the issuing authority.

17 6. Unorganized territory. Any resident of an
18 unorganized territory shall make written application
19 to the appropriate issuing authority in any munici-
20 pality nearest the unorganized territory and the ap-
21 plication, fee and permit provisions of this section
22 shall apply.

23 7. Nonresident. Any nonresident who meets the
24 requirements of this section may make an application
25 to the Chief of the State Police and the application,
26 fee and permit provisions of this section shall ap-
27 ply, except that a nonresident applicant shall submit
28 an application fee not to exceed \$40. The fee re-
29 quired under this subsection shall be applied to the
30 expenses of administering this subsection.

31 8. Term of permit. All concealed firearm per-
32 mits are valid for 3 years from the date of issue,
33 unless sooner revoked for cause by the issuing au-
34 thority.

35 9. Information contained in permit. Each permit
36 to carry concealed firearms issued shall contain the
37 following: The name, address and physical descrip-

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1 tion of the permit holder; the holder's signature;
2 the date of issuance; and the date of expiration. A
3 permit to carry concealed firearms may additionally
4 contain a photograph of the permit holder if the is-
5 ssuing authority makes a photograph an integral part
6 of the permit to carry concealed firearms.

7 10. Validity of permit throughout the State.
8 Permits issued authorize the person to carry those
9 concealed firearms throughout the State.

10 11. Permit to be in permit holder's immediate
11 possession. Every permit holder shall have his per-
12 mit in his immediate possession at all times when
13 carrying a concealed firearm and shall display the
14 same on demand of any law enforcement officer. No
15 person charged with violating this subsection may be
16 adjudicated as having committed a civil violation if
17 he produces in court the concealed firearms permit
18 which was valid at the time of the issuance of a sum-
19 mons to court or, if he exhibits the permit to a law
20 enforcement officer designated by the summoning of-
21 ficer not later than 24 hours before the time set for
22 the court appearance, no complaint may be issued.

23 12. Permit for a resident of 5 or more years to
24 be issued or denied within 30 days; permit for a non-
25 resident and resident of less than 5 years to be is-
26 sued or denied within 60 days. The issuing authori-
27 ty, as defined in this chapter, shall issue or deny,
28 and reply in writing as to the reason for any denial,
29 within 30 days of the application date in the case of
30 a resident of 5 or more years and within 60 days of
31 the application date in the case of a nonresident or
32 in the case of a resident of less than 5 years.

33 §2004. Penalty

34 Whoever intentionally or knowingly makes any
35 false statements in the written application or any
36 documents made a part of the application or violates
37 any provisions of section 2001 is guilty of a Class D

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1 crime.

2 Whoever fails to comply with section 2003, sub-
3 section 11, commits a civil violation for which a
4 forfeiture of not more than \$100 may be adjudged.

5 Whoever intentionally or knowingly violates the
6 confidentiality provisions of section 2006 is guilty
7 of a Class E crime.

8 §2005. Revocation; change of residence

9 1. Revocation. The issuing authority shall re-
10 voke a permit on the basis of one or more of the fol-
11 lowing determinations:

12 A. The application or any documents made part of
13 the application contained a material misstate-
14 ment;

15 B. The permit holder has been convicted of a vi-
16 olation of section 2001; or

17 C. The permit holder becomes ineligible to pos-
18 sess a permit under this chapter. Ineligibility
19 is determined on the basis of the criteria con-
20 tained in section 2003.

21 2. Change of residence. Except as provided in
22 paragraph A, change of legal residence from one mu-
23 nicipality to another during the term of the permit
24 renders the permit invalid starting 30 days after the
25 change is made. An invalid permit is not considered
26 revoked for the purposes of subsection 3.

27 A. If the permit holder changes his legal resi-
28 dence from one municipality to another during the
29 term of the permit, the permit remains valid if
30 he provides his new address to the issuing au-
31 thority of his new residence within 30 days of
32 making that change. The issuing authority of the
33 new residence shall immediately reissue the per-

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1 mit with the corrected address for a fee of not
2 more than \$2.

3 3. Reapplication. No person, otherwise eligi-
4 ble, who has had a permit revoked, is eligible for
5 reapplication until the expiration of 5 years from
6 the date of revocation.

7 §2006. Confidentiality of application; penalty

8 Notwithstanding Title 1, sections 401 to 410, all
9 applications for a permit to carry concealed firearms
10 and documents made a part of the application, refus-
11 als and any information of record collected by the
12 issuing agency during the process of ascertaining
13 whether an applicant is of good moral character and
14 meets the additional requirements of sections 2003
15 and 2005, are confidential and may not be made avail-
16 able for public inspection or copying. The applicant
17 may waive this confidentiality by written notice to
18 the issuing authority. All proceedings relating to
19 the issuance, refusal or revocation of a permit to
20 carry concealed firearms are not public proceedings
21 under Title 1, chapter 13, unless otherwise requested
22 by the applicant.

23 The issuing authority shall make a permanent
24 record of each permit to carry concealed firearms in
25 a suitable book or file kept for that purpose. The
26 record shall include the information contained in the
27 permit itself and shall be available for public in-
28 spection.

29 Sec. 3. 25 MRSA c. 253, as amended, is re-
30 pealed.'

31 STATEMENT OF FACT

32 This amendment renumbers the chapter and sections
33 from the original bill.

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1 This amendment makes several changes in the orig-
2 inal bill in order to facilitate the concealed fire-
3 arms permit process.

4 First, this amendment clarifies that a person
5 must have a valid concealed firearms permit to legal-
6 ly carry a concealed firearm.

7 An exception for hunting knives is added to clar-
8 ify that a permit is not necessary to carry a knife
9 used for hunting, fishing or trapping, as defined in
10 Title 12.

11 The definition of "alcoholic" is removed, as is
12 the question in the application concerning being an
13 alcoholic.

14 Rather than making the applicant help make all
15 governmental records open to the issuing authority,
16 this amendment clarifies that only the records re-
17 tained by the courts, the Department of Mental Health
18 and Mental Retardation with respect to committals to
19 Augusta Mental Health Institute and Bangor Mental
20 Health Institute, law enforcement agencies and the
21 military must be made available by the applicant to
22 the issuing authority if necessary to issue or deny
23 the permit. These are basically the only records
24 that are relevant to the permit.

25 The applicant is not required to attach a copy of
26 his military discharge order, because sometimes these
27 papers are delayed and could hold up the permitting
28 process.

29 This amendment reduces the fees for resident per-
30 mits to \$20 for an original application, and \$10 for
31 a renewal. This is a slight increase in the current
32 fee structure for resident permits, although the term
33 of the permit is increased to 3 years.

34 This amendment clarifies that if the applicant

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1 answers affirmatively that he is currently being
2 charged with a crime that would make him ineligible
3 for a permit if convicted he will not be denied the
4 permit automatically. If the permit is issued and he
5 is then convicted of the crime, his permit will be
6 revoked.

7 This amendment also clarifies that each applicant
8 will be provided a copy of the chapter on concealed
9 weapons, as well as the definitions used in the chap-
10 ter but contained in other Titles.

11 The Maine Revised Statutes, Title 25, section
12 2033-A, subsection 4, paragraphs B and C are struck
13 from the bill on the basis that they have little to
14 do with determining the good moral character of an
15 applicant.

16 The only confidential records that are open to
17 the issuing authority are those of governmental men-
18 tal health institutions and records of abuse by
19 adults of family or household members as required un-
20 der the Maine Revised Statutes, Title 19, section
21 770, subsection 1.

22 Nonresident fees are reduced from the current fee
23 of \$100 to \$40. It is projected that the lower fee
24 will encourage more nonresidents to purchase a con-
25 cealed firearms permit and will actually result in an
26 increase in revenue.

27 A permit holder who moves to a new legal resi-
28 dence in a different municipality does not have to go
29 through the entire permitting process again. He sim-
30 ply reports his change of address to the issuing au-
31 thority which has jurisdiction over his new residence
32 within 30 days. That issuing authority must reissue
33 the permit with the new address. A fee of not more
34 than \$2 may be charged to cover the costs of the new
35 permit. The new permit will be valid for the remain-
36 der of the term of the original permit.

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1 Nonresidents and residents of less than 5 years
2 must have their applications approved or denied with-
3 in 60 days.

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