

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 819

6  
7 S.P. 331

In Senate, February 28, 1985

8 Referred to the Committee on Legal Affairs. Sent down for concurrence  
9 and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

11 Cosponsored by Representative Gwadosky of Fairfield, Senator Pearson  
of Penobscot and Senator Najarian of Cumberland.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Amend the Concealed Weapons Law.  
18

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

21 Sec. 1. 15 MRSA §393, sub-§2, as amended by PL  
22 1977, c. 564, §73, is further amended to read:

23 2. Application after 5 years. Any person subject  
24 to the provisions of subsection 1 may, after the ex-  
25 piration of 5 years from the date that the person is  
26 finally discharged from any and all sentences imposed  
27 as a result of the conviction, apply to the Commis-  
28 sioner of Public Safety for a permit to carry a fire-  
29 arm. Such a person shall not be issued a license to  
30 carry a concealed firearm ~~or other weapon~~ pursuant to  
31 Title 25, ~~section 2031~~ chapter 253-A.

32 Sec. 2. 25 MRSA c. 253, as amended, is repealed.

33 Sec. 3. 25 MRSA c. 253-A is enacted to read:



- 1           4. Drug abuser. "Drug abuser" has the same  
2 meaning as set forth in Title 22, section 7103, sub-  
3 section 9.
- 4           5. Drug addict. "Drug addict" has the same  
5 meaning as set forth in Title 22, section 7103, sub-  
6 section 11.
- 7           6. Drug dependent person. "Drug dependent per-  
8 son" has the same meaning as set forth in Title 22,  
9 section 7103, subsection 12.
- 10          7. Firearm. "Firearm" has the same meaning as  
11 set forth in Title 17-A, section 2, subsection 12-A.
- 12          8. Formal charging instrument. "Formal charging  
13 instrument" means a complaint, indictment, informa-  
14 tion, juvenile petition or other formal written accu-  
15 sation against a person for some criminal or juvenile  
16 offense.
- 17          9. Fugitive from justice. "Fugitive from jus-  
18 tice" has the same meaning as set forth in Title 15,  
19 section 201, subsection 4.
- 20          10. Issuing authority. "Issuing authority"  
21 means the mayor and aldermen or councilors of a city,  
22 the selectmen or councilors of a town or the asses-  
23 sors of a plantation or, if they so choose, their  
24 full-time chief of police as their designee.
- 25          11. Law enforcement officer. "Law enforcement  
26 officer" has the same meaning as set forth in Title  
27 17-A, section 2, subsection 17.
- 28          12. Reckless or negligent conduct. "Reckless or  
29 negligent conduct" means that the applicant, either  
30 consciously disregarding or failing to be aware of a  
31 risk that his conduct would cause such a result, en-  
32 gaged in conduct which in fact created a substantial  
33 risk of death, serious bodily injury or bodily injury  
34 to another human being and the applicant's disregard  
35 or failure to be aware of that risk, when viewed in  
36 light of the nature and purpose of the applicant's  
37 conduct and the circumstances known to him, involved  
38 a deviation from the standard of conduct that a rea-  
39 sonable and prudent person would observe in the same  
40 situation.

1     §2033-A. Permits to carry concealed firearms

2             1. Criteria for issuing permit. The issuing au-  
3 thority shall, upon written application, issue a per-  
4 mit to carry concealed firearm to any legal resident  
5 of that municipality who has demonstrated good moral  
6 character and who meets the following requirements:

7             A. Is 18 years of age or older;

8             B. Is not disqualified as a permit holder pur-  
9 suant to Title 15, section 393, subsections 1 and  
10 2;

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

16            D. Submits an application which contains the  
17 following:

18                    (1) Full name;

19                    (2) Full current address and addresses for  
20 the prior 5 years;

21                    (3) The date and place of birth, height,  
22 weight and color of eyes;

23                    (4) A record of previous issuances of, re-  
24 fusals to issue and revocations of a permit  
25 to carry concealed firearms by any issuing  
26 authority. The record of previous refusals  
27 alone does not constitute cause for refusal  
28 and the record of previous revocations alone  
29 constitutes cause for refusal only as pro-  
30 vided in section 2035-A; and

31                    (5) Answers to the following questions:

32                            (a) Is there a formal charging instru-  
33 ment now pending against you in this or  
34 any other jurisdiction for a crime  
35 which is punishable by one year or more  
36 imprisonment or for any other crime al-

1 leged to have been committed by you  
2 with the use of a dangerous weapon, as  
3 defined in Title 17-A, section 2, sub-  
4 section 9, or of a firearm against an-  
5 other person?

6 (b) Is there a formal charging instru-  
7 ment now pending against you in this or  
8 any other jurisdiction for a juvenile  
9 offense which involves conduct which,  
10 if committed by an adult, would be pun-  
11 ishable by one year or more imprison-  
12 ment or for any other juvenile offense  
13 alleged to have been committed by you  
14 with the use of a dangerous weapon, as  
15 defined in Title 17-A, section 2, sub-  
16 section 9, or of a firearm against an-  
17 other person?

18 (c) Have you ever been convicted of a  
19 crime described in division (a) or ad-  
20 judicated as having committed a juve-  
21 venile offense as described in division  
22 (b)?

23 (d) Are you a fugitive from justice?

24 (e) Are you an alcoholic, drug abuser,  
25 drug addict, drug dependent person?

26 (f) Do you have a mental disorder  
27 which causes you to be potentially dan-  
28 gerous to yourself or others?

29 (g) Have you been adjudicated to be an  
30 incapacitated person pursuant to Title  
31 18-A, Article V, Parts 3 and 4, and not  
32 had that designation removed by an or-  
33 der under Title 18-A, section 5-307,  
34 subsection (b)?

35 (h) Have you been dishonorably dis-  
36 charged from the military forces within  
37 the past 5 years?

38 (i) Are you an illegal alien?

1           E. Does the following:

2           (1) At the request of the issuing authori-  
3           ty, takes whatever action is required of  
4           him, either by law or by practical neces-  
5           sity, to allow the issuing authority to ob-  
6           tain from governmental entities information  
7           relevant to the following:

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

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

15                   (c) Section 2035-A;

16           (2) If discharged from the military forces  
17           within the past 5 years, submits with the  
18           application a copy of his discharge order;

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

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

27           (5) Submits an application fee not to ex-  
28           ceed \$50 for a resident of the State. The  
29           fee shall cover both the cost of processing  
30           the application by the issuing authority and  
31           the cost of the permit to carry concealed  
32           firearms issued by the issuing authority.

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-  
36           nature to the application, the applicant certifies  
37           the following:

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

4           B. That he understands an affirmative answer to  
5           any of the questions in subsection 1, paragraph  
6           D, subparagraph (5), is cause for refusal; and

7           C. That he understands any false statements made  
8           in the application or any document made a part of  
9           the application may result in prosecution as pro-  
10          vided in section 2034-A.

11          3. Copy of chapter furnished to applicant. A  
12          copy of this chapter shall be provided to every ap-  
13          plicant.

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

20               A. Information of record relative of incidents  
21               of abuse by the applicant of family or household  
22               members, provided pursuant to Title 19, section  
23               770, subsection 1;

24               B. Information of record retained at and by the  
25               Department of Human Services regarding the fail-  
26               ure of the applicant to meet child or family sup-  
27               port obligations;

28               C. 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;

35               D. Information of record relative to 3 or more  
36               adjudications of the applicant for civil viola-  
37               tions; or



1           E. 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 which are necessary to the issuing authori-  
8           ty's determination of the applicant's good moral  
9           character and compliance with the additional require-  
10          ments of this section and of section 2035-A shall, at  
11          the request of the issuing authority, be made availa-  
12          ble for inspection by and dissemination to the issu-  
13          ing authority.

14          6. Unorganized territory. Any resident of an  
15          unorganized territory shall make written application  
16          to the appropriate issuing authority in any municipi-  
17          ality nearest the unorganized territory and the ap-  
18          plication, fee and permit provisions of this section  
19          shall apply.

20          7. Nonresident. Any nonresident who meets the  
21          requirements of this section may make an application  
22          to the Chief of the State Police and the application,  
23          fee and permit provisions of this section shall ap-  
24          ply, except that a nonresident applicant shall submit  
25          an application fee not to exceed \$100. The fee re-  
26          quired under this subsection shall be applied to the  
27          expenses of administering this subsection.

28          8. Term of permit. All concealed firearm per-  
29          mits are valid for 2 years from the date of issue,  
30          unless sooner revoked for cause by the issuing au-  
31          thority.

32          9. Information contained in permit. Each permit  
33          to carry concealed firearms issued shall contain the  
34          following: The name, address and physical descrip-  
35          tion of the permit holder; the holder's signature;  
36          the date of issuance; and the date of expiration. A  
37          permit to carry concealed firearms may additionally  
38          contain a photograph of the permit holder if the is-  
39          ssuing authority makes a photograph an integral part  
40          of the permit to carry concealed firearms.

1           10. Validity of permit throughout the State.  
2 Permits issued authorize the person to carry those  
3 concealed firearms throughout the State.

4           11. Permit to be in permit holder's immediate  
5 possession. Every permit holder shall have his per-  
6 mit in his immediate possession at all times when  
7 carrying a concealed firearm and shall display the  
8 same on demand of any law enforcement officer.

9           12. Permit for a resident of 5 or more years to  
10 be issued or denied within 30 days; permit for a non-  
11 resident and residents of less than 5 years to be is-  
12 sued or denied within 90 days. The issuing authori-  
13 ty, as set forth in this section, shall issue or de-  
14 ny, and reply in writing as to the reason for any re-  
15 usal, within 30 days of the application date in the  
16 case of a resident of 5 or more years and within 90  
17 days of the application date in the case of a nonres-  
18 ident and residents of less than 5 years.

19           §2034-A. Penalty

20           Whoever intentionally or knowingly makes any  
21 false statements in the written application or any  
22 documents made a part of the application or violates  
23 any provisions of section 2031-A is guilty of a Class  
24 D crime.

25           Whoever fails to comply with section 2033-A, sub-  
26 section 11, commits a civil violation for which a  
27 forfeiture of not more than \$100 may be adjudged.

28           Whoever intentionally or knowingly violates the  
29 confidentiality provisions of section 2036-A is  
30 guilty of a Class E crime.

31           §2035-A. Revocation; change of residence

32           1. Revocation. The issuing authority shall re-  
33 voke a permit on the basis of one or more of the fol-  
34 lowing determinations:

35           A. The application or any documents made part of  
36 the application contained a material misstate-  
37 ment;

1           B. The permit holder has been convicted of a vi-  
2           olation of section 2031-A; or

3           C. The permit holder becomes ineligible to pos-  
4           sess a permit under this chapter.

5           2. Change of residence. Change of legal resi-  
6           dence during the term of the permit renders the per-  
7           mit invalid. An invalid permit is not considered re-  
8           voked for the purposes of subsection 3.

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

13          §2036-A. Confidentiality of application; penalty

14          Notwithstanding Title 1, sections 401 to 410, all  
15          applications, for a permit to carry concealed fire-  
16          arms and documents made a part of the application,  
17          refusals and any information of record collected by  
18          the issuing agency during the process of ascertaining  
19          whether an applicant is of good moral character and  
20          meets the additional requirements of sections 2033-A  
21          and 2035-A, are confidential and may not be made  
22          available for public inspection or copying. The ap-  
23          plicant may waive this confidentiality by written no-  
24          tice to the issuing authority. All proceedings relat-  
25          ing to the issuance, refusal or revocation of a per-  
26          mit to carry concealed firearms are not public pro-  
27          ceedings under Title 1, chapter 13, unless otherwise  
28          requested by the applicant.

29          Notwithstanding any other provision of this sec-  
30          tion, the name and address of all applicants for a  
31          permit are public information.

32          The issuing authority shall make a permanent  
33          record of each permit to carry concealed firearms in  
34          a suitable book or file kept for that purpose. The  
35          record shall include the information contained in the  
36          permit itself and shall be available for public in-  
37          spection.

1 STATEMENT OF FACT

2 This bill effects a number of changes in the law  
3 governing concealed firearms. These changes are  
4 meant to clarify the law to facilitate its prompt and  
5 equitable administration. This bill makes the fol-  
6 lowing changes to the concealed weapons law:

7 1. States that only dangerous weapons which can  
8 be concealed, only with a permit, are firearms. Mace  
9 can be concealed without a permit;

10 2. Enacts a definitional section that sets out  
11 the actual meaning of terms used throughout the law.  
12 These definitions originate in other parts of the  
13 law, such as the Maine Revised Statutes, Title 17-A  
14 and Title 22. Since the applicant for a permit, un-  
15 der the Maine Revised Statutes, Title 25, section  
16 2033-A, subsection 3, is provided a copy of the law,  
17 this information will be available to him;

18 3. Refers to a provision in the Maine Revised  
19 Statutes, Title 15, which governs possession of fire-  
20 arms by persons convicted of certain crimes;

21 4. Allows consideration of certain particularly  
22 serious juvenile offenses in the permit issuance pro-  
23 cess;

24 5. Provides the issuing authority with pertinent  
25 information concerning prior permit issuances and  
26 revocations, as well as denials. Although Maine au-  
27 thorities may issue permits for concealed firearms  
28 only, other states may issue permits which also cover  
29 other concealed weapons. These permits, whether is-  
30 sued, refused or revoked, shall be disclosed on the  
31 application even if they do not deal specifically  
32 with firearms;

33 6. Revises the questions to be asked of an ap-  
34 plicant for a permit. The questions are rewritten to  
35 cure certain ambiguities in their legal implications  
36 and to include certain juvenile offenses;

37 7. Outlines the duties of the applicant aside  
38 from completing the application. These include tak-  
39 ing reasonable measures to assist the issuing author-

1     ity in verifying the accuracy of his answers and sub-  
2     mitting the application fee;

3             8. Assures that issuing authorities have access  
4     to the information they require in order to decide on  
5     an application;

6             9. Requires the permit to show the holder's sig-  
7     nature and the dates of issuance and expiration, in  
8     addition to present requirements;

9             10. Repeals a provision of the law which  
10    exculpates a person for failing to present his permit  
11    to a law enforcement officer if he presents the val-  
12    id permit to the court or to the law enforcement of-  
13    ficer before trial. Instead, under section 2034-A,  
14    contained in this bill, this would simply be a civil  
15    violation;

16            11. Extends the time for consideration of appli-  
17    cations made by residents of less than 5 years be-  
18    cause of special problems encountered in investiga-  
19    tions;

20            12. Clarifies the revocation procedure and the  
21    effect of a change of residence; and

22            13. Clarifies the confidentiality provisions of  
23    the law.

APPLICATION FOR A PERMIT TO CARRY  
CONCEALED FIREARMS

FULL NAME	LAST	FIRST	MIDDLE		
FULL CURRENT ADDRESS	STREET OR RFD				
	CITY OR TOWN	STATE		ZIP CODE	
BIRTHDATE	BIRTHPLACE	CITIZEN	HEIGHT	WEIGHT	COLOR OF EYES

LIST ADDRESSES FOR THE PAST FIVE YEARS \_\_\_\_\_

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LIST OF PREVIOUS ISSUANCES OF PERMIT TO CARRY CONCEALED FIREARMS

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LIST OF PREVIOUS REFUSALS TO ISSUE PERMIT TO CARRY CONCEALED FIREARMS \_\_\_\_\_

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LIST OF REVOCATIONS OF PERMIT TO CARRY CONCEALED FIREARMS \_\_\_\_\_

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ARE YOU MAKING APPLICATION AS A RESIDENT OF MAINE OR AS A  
NON RESIDENT (CHECK ONE)       Resident       Nonresident

---

CHECK APPROPRIATE BOX AFTER EACH QUESTION

1. Are you less than 18 years of age?       Yes       No
2. Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime which is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon or of a firearm against another person?       Yes       No
3. Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be punishable by one year or more imprisonment or for any other juvenile offense alleged to have been committed by you with the use of a dangerous weapon or of a firearm against another person?       Yes       No
4. Have you ever been convicted of a crime described in 2 or adjudicated as having committed a juvenile offense as described in 3?       Yes       No
5. Are you a fugitive from justice?       Yes       No
6. Are you an alcoholic, drug abuser, drug addict or drug dependent person?       Yes       No
7. Do you have a mental disorder which causes you to be potentially dangerous to yourself or others?       Yes       No
8. Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article U, Parts 3 and 4, and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?       Yes       No
9. Have you been dishonorably discharged from the military forces within the past 5 years?       Yes       No
10. Are you an illegal alien?       Yes       No
11. Within the past 5 years have you been the subject of an investigation by any law enforcement agency regarding the alleged abuse by you of family or household members?       Yes       No

12. Within the past 5 years have you been the subject of an investigation by the Department of Human Services regarding the alleged failure by you to meet child or family support obligations?  Yes  No
13. Within the past 5 years have you been convicted of 3 or more crimes punishable by less than one year imprisonment?  Yes  No
14. Within the past 5 years have you been adjudged to have committed 3 or more juvenile offenses involving conduct which, if committed by an adult, would be punishable by less than one year imprisonment?  Yes  No
15. Within the past 5 years have you been adjudged to have committed 3 or more civil violations?  Yes  No
16. Within the past 5 years have you engaged in reckless or negligent conduct which has been the subject of an investigation by a governmental entity?  Yes  No

IF DISCHARGED FROM THE MILITARY FORCES WITHIN THE PAST 5 YEARS, YOU MUST SUBMIT WITH THIS APPLICATION A COPY OF YOUR DISCHARGE ORDER.

YOU MUST SUBMIT WITH THIS APPLICATION THE PROPER APPLICATION FEE AS REFERRED TO IN THE FOLLOWING APPLICATION FEE SCHEDULE

APPLICATION FEE SCHEDULE

MAINE RESIDENT

APPLICATION \$50

NONRESIDENT

APPLICATION \$100

BY AFFIXING YOUR SIGNATURE BELOW AS THE APPLICANT YOU:

- A. Certify that the statements you have made thereon, and any documents you make a part thereof, are true and correct.
- B. Certify that you understand that an affirmative answer to any of the questions numbered 1 through 10 above is cause for refusal.
- C. Certify that you understand that any false statements made in this application or any documents you make a part thereof may result in criminal prosecution.



D. Certify that you understand that, at the request of the issuing authority, you will take whatever action is required of you, either by law or by practical necessity, to allow such issuing authority to obtain from governmental entities information relevant to the following:

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

(2) The ascertainment of whether each of the requirements of sections 2033 and 2035 have been met.

E. Certify that you understand that if a photograph is an integral part of the permit to carry concealed firearms adopted by the issuing authority, you will submit to being photographed for that purpose.

F. Certify that you have received a copy of the laws governing the carrying of concealed firearms.

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Under penalties of perjury, I believe that the statements in this written application and any documents made a part thereof are, to the best of my knowledge and belief, true, correct and complete.

---

Your Signature

Date

ALL QUESTIONS MUST BE ANSWERED COMPLETELY OR APPLICATION WILL BE RETURNED

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