

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1342

S.P. 504

In Senate, March 28, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec  
Cosponsored by Representative SPEAR of Nobleboro.

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STATE OF MAINE

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

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**An Act to Eliminate Municipal Responsibility for Issuing Concealed  
Weapon Permits.**

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

2  
4       Sec. 1. 25 MRSA §2001, first ¶, as enacted by PL 1985, c. 478,  
§2, is amended to read:

6       No A person may not display in a threatening manner, or wear  
8       under his that person's clothes or conceal about his that person,  
10       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.

12       Sec. 2. 25 MRSA §2002, sub-§§2 to 5, as enacted by PL 1985, c.  
14       478, §2, are amended to read:

16       2.       Dependency-related drug.       "~~Dependency----~~related  
Dependency-related drug" has the same meaning as set forth in  
18       Title 22 5, section 7103 2003, subsection 7.

20       3.       Drug abuser.       "Drug abuser" has the same meaning as set  
forth in Title 22 5, section 7103 2003, subsection 9 10.

22       4.       Drug addict.       "Drug addict" has the same meaning as set  
24       forth in Title 22 5, section 7103 2003, subsection 11.

26       5.       Drug-dependent person.       "~~Drug-dependent~~ Drug-dependent  
28       person" has the same meaning as set forth in Title 22 5, section  
7103 2003, subsection 12.

30       Sec. 3. 25 MRSA §2002, sub-§9, as enacted by PL 1985, c. 478,  
§2, is repealed and the following enacted in its place:

32       9.       Issuing authority.       "Issuing authority" means the Chief  
34       of the State Police.

36       Sec. 4. 25 MRSA §2002, sub-§11, as enacted by PL 1985, c. 478,  
§2, is amended to read:

38       11.       Reckless or negligent conduct.       "Reckless or negligent  
40       conduct" means that the applicant, either consciously  
42       disregarding or failing to be aware of a risk that his the  
person's conduct would cause such a result, engaged in conduct  
44       which that in fact created a substantial risk of death, serious  
46       bodily injury or bodily injury to another human being and the  
48       applicant's disregard or failure to be aware of that risk, when  
viewed in light of the nature and purpose of the applicant's  
conduct and the circumstances known to him the applicant,  
involved a deviation from the standard of conduct that a  
reasonable and prudent person would observe in the same situation.

50       Sec. 5. 25 MRSA §2003, as amended by PL 1989, c. 924, §§14  
and 15, is further amended to read:

52

2  
3 **§2003. Permits to carry concealed firearms**

4 1. **Criteria for issuing permit.** The issuing authority  
5 shall, upon written application, issue a permit to carry  
6 concealed firearms to any ~~legal-resident-of-that-municipality~~  
7 person who has demonstrated good moral character and who meets  
8 the following requirements:

9 A. Is 18 years of age or older;

10 B. Is not disqualified as a permit holder pursuant to Title  
11 15, section 393, subsections 1 and 2;

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

16 D. Submits an application that contains the following:

17 (1) Full name;

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

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

22 (4) A record of previous issuances of, refusals to  
23 issue and revocations of a permit to carry concealed  
24 firearms or other concealed weapons by any issuing  
25 authority in the State or any other jurisdiction. The  
26 record of previous refusals alone does not constitute  
27 cause for refusal and the record of previous  
28 revocations alone constitutes cause for refusal only as  
29 provided in section 2005; and

30 (5) Answers to the following questions.

31 (a) Is there a formal charging instrument now  
32 pending against you in this or any other  
33 jurisdiction for a crime that is punishable by one  
34 year or more imprisonment or for any other crime  
35 alleged to have been committed by you with the use  
36 of a dangerous weapon, as defined in Title 17-A,  
37 section 2, subsection 9, or of a firearm against  
38 another person?

39 (b) Is there a formal charging instrument now  
40 pending against you in this or any other  
41 jurisdiction for a juvenile offense that involves  
42 conduct that, if committed by an adult, would be  
43

2 punishable by one year or more imprisonment or for  
any other juvenile offense alleged to have been  
4 committed by you with the use of a dangerous  
weapon, as defined in Title 17-A, section 2,  
6 subsection 9, or of a firearm against another  
person?

8 (c) Have you ever been convicted of a crime  
described in division (a) or adjudicated as having  
10 committed a juvenile offense as described in  
division (b)?

12 (d) Are you a fugitive from justice?

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

18 (f) Do you have a mental disorder that causes you  
to be potentially dangerous to yourself or others?

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

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

30 (i) Are you an illegal alien?

32 (j) Have you been convicted of a violation of  
Title 17-A, section 1057 within the past 5 years?

34 (k) Have you been adjudicated within the past 5  
36 years as having committed a juvenile offense  
involving conduct that, if committed by an adult,  
38 would be a violation of Title 17-A, section 1057?

40 (l) To your knowledge, have you been the subject  
of an investigation by any law enforcement agency  
42 within the past 5 years regarding the alleged  
abuse by you of family or household members?

44 (m) Have you been convicted within the past 5  
46 years of 3 or more crimes punishable by  
imprisonment of less than one year?

48 (n) Have you been adjudged within the past 5  
50 years to have committed 3 or more juvenile  
offenses involving conduct that, if committed by

2 an adult, would be punishable by imprisonment of  
less than one year?

4 (o) To your knowledge, have you engaged within  
6 the past 5 years in reckless or negligent conduct  
that has been the subject of an investigation by a  
8 governmental entity?

10 E. Does the following:

12 (1) At the request of the issuing authority, takes  
14 whatever action is required by law to allow the issuing  
16 authority to obtain from the Department of Mental  
18 Health and Mental Retardation, limited to records of  
patient committals to Augusta Mental Health Institute  
and Bangor Mental Health Institute, the courts, law  
enforcement agencies and the military information  
relevant to the following:

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

24 (b) The ascertainment of whether each of the  
26 additional requirements of this section has been  
met; and

28 (c) Section 2005;

30 ~~If a photograph is an integral part of the permit~~  
32 ~~to carry concealed firearms adopted by an issuing~~  
~~authority, submits~~ Submits to being photographed for  
34 that purpose the issuance of a concealed firearms  
permit with a photograph;

36 (3) If it becomes necessary to resolve any questions  
38 as to identity, submits to having fingerprints taken by  
the issuing authority;

40 Submits If a resident of the State, submits an  
42 application fee not to exceed \$20 for an original  
44 application and \$10 for a renewal ~~for a resident of the~~  
~~State or, if a nonresident, submits an application fee~~  
46 not to exceed \$40. The fee shall cover both the cost  
of processing the application by the issuing authority  
and the cost of the permit to carry concealed firearms  
48 issued by the issuing authority must be applied to the  
expenses of administering this chapter; and

50 (5) Demonstrates to the issuing authority a knowledge  
52 of handgun firearms safety. The applicant may fully  
satisfy this requirement by submitting to the issuing

2 authority, through documentation in accordance with  
3 this subparagraph, proof that the applicant has within  
4 5 years prior to the date of application completed a  
5 course that included handgun firearms safety offered by  
6 or under the supervision of a federal, state, county or  
7 municipal law enforcement agency or a firearms  
8 instructor certified by a private firearms association  
9 recognized as knowledgeable in matters of firearms  
10 safety by the issuing authority or by the state in  
11 which the course was taken. A course completion  
12 certificate or other document, or a photocopy, is  
13 sufficient if it recites or otherwise demonstrates that  
14 the course meets all of the requirements of this  
15 subparagraph.

16 As an alternative way of fully satisfying this  
17 requirement, an applicant may personally demonstrate  
18 knowledge of handgun firearms safety to an the issuing  
19 authority, if the issuing authority is willing to  
20 evaluate an applicant's personal demonstration of such  
21 knowledge. The issuing authority is not required to  
22 offer this 2nd option.

23 The demonstration of knowledge of handgun firearms  
24 safety to the issuing authority may not be required of  
25 any applicant who holds a valid State state permit to  
26 carry a concealed firearm as of April 15, 1990 or of  
27 any applicant who was or is in any of the Armed Forces  
28 of the United States and has received at least basic  
29 firearms training.

30  
31  
32 **2. Complete application; certification by applicant.** The  
33 requirements set out in subsection 1, constitute a complete  
34 application. By affixing his the applicant's signature to the  
35 application, the applicant certifies the following that:

36  
37  
38 A. ~~That-the~~ The statements he-makes made in the application  
39 and any documents he-makes made a part of the application,  
40 are true and correct;

41  
42 B. ~~That-the~~ The applicant understands that an affirmative  
43 answer to one or more of the questions in subsection 1,  
44 paragraph D, subparagraph (5), divisions (c) to (k) is cause  
45 for refusal;

46  
47 B-1. ~~That-the~~ The applicant understands that an affirmative  
48 answer to one or more of the questions in subsection 1,  
49 paragraph D, subparagraph (5), divisions (a), (b), (l), (m),  
50 (n) and (o) is used by the issuing authority, along with  
51 other information, in judging good moral character under  
52 subsection 4; and

2 C. ~~That he~~ The applicant understands any false statements  
4 made in the application or any document made a part of the  
application may result in prosecution as provided in section  
2004.

6 3. Copy of laws furnished to applicant. A copy of this  
8 chapter and the definitions from other chapters which that are  
used in this chapter shall must be provided to every applicant.

10 ~~3. A. Model forms. The Attorney General shall develop model  
forms for the following:~~

12 ~~A. An application for a resident permit to carry concealed  
14 firearms;~~

16 ~~B. An application for a nonresident permit to carry  
concealed firearms;~~

18 ~~C. A resident permit to carry concealed firearms of which a  
20 photograph is an integral part;~~

22 ~~D. A resident permit to carry concealed firearms of which a  
24 photograph is not an integral part;~~

26 ~~E. A nonresident permit to carry concealed firearms; and~~

28 ~~F. Authority to release information to the issuing  
authority for the purpose of evaluating information supplied  
on the application.~~

30 ~~Each issuing authority shall utilize only the model forms.~~

32 4. Good moral character. The issuing authority in judging  
34 good moral character shall make its determination in writing  
based solely upon information recorded by governmental entities  
36 within 5 years of receipt of the application, including, but not  
limited to, the following matters:

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

42 B. Information of record relative to 3 or more convictions  
44 of the applicant for crimes punishable by less than one year  
imprisonment or one or more adjudications of the applicant  
46 for juvenile offenses involving conduct that, if committed  
by an adult, is punishable by less than one year  
48 imprisonment;

50 C. Information of record indicating that the applicant has  
engaged in reckless or negligent conduct; or

52



2 D. Information of record indicating that the applicant has  
3 been convicted of or adjudicated as having committed a  
4 violation of Title 17-A, chapter 45 or Title 22, section  
5 2383, or adjudicated as having committed a juvenile crime  
6 that is a violation of Title 22, section 2383 or a juvenile  
7 crime that would be defined as a criminal violation under  
8 Title 17-A, chapter 45 if committed by an adult.

9  
10 5. Access to confidential records. Notwithstanding that  
11 certain records retained by governmental entities are by law made  
12 confidential, the records pertaining to patient committals to  
13 Augusta Mental Health Institute and Bangor Mental Health  
14 Institute, and records compiled pursuant to Title 19, section  
15 770, subsection 1, ~~which~~ that are necessary to the issuing  
16 authority's determination of the applicant's good moral character  
17 and compliance with the additional requirements of this section  
18 and of section 2005 shall must, at the request of the issuing  
19 authority, be made available for inspection by and dissemination  
20 to the issuing authority.

21 ~~6. Unorganized territory. Any resident of an unorganized  
22 territory shall make written application to the appropriate  
23 issuing authority in any municipality nearest the unorganized  
24 territory and the application, fee and permit provisions of this  
25 section shall apply.~~

26  
27 ~~7. Nonresident. Any nonresident who meets the requirements  
28 of this section may make an application to the Chief of the State  
29 Police and the application, fee and permit provisions of this  
30 section shall apply, except that a nonresident applicant shall  
31 submit an application fee not to exceed \$40. The fee required  
32 under this subsection shall be applied to the expenses of  
33 administering this subsection.~~

34  
35 8. Term of permit. All concealed firearm permits are valid  
36 for 3 years from the date of issue, unless sooner revoked for  
37 cause by the issuing authority.

38  
39 9. Information contained in permit. Each permit to carry  
40 concealed firearms issued shall must contain the following: The  
41 the name, address and physical description of the permit holder;  
42 the holder's signature; the date of issuance; and the date of  
43 expiration. A permit to carry concealed firearms may  
44 additionally must contain a photograph of the permit holder ~~if~~  
45 ~~the issuing authority makes a photograph an integral part of the~~  
46 ~~permit to carry concealed firearms.~~

47  
48 10. Validity of permit throughout the State. Permits  
49 issued authorize the person to carry those concealed firearms  
50 throughout the State.

11. **Permit to be in permit holder's immediate possession.**  
2 Every permit holder shall have his the permit in his the holder's  
4 immediate possession at all times when carrying a concealed  
6 firearm and shall display the same permit on demand of any law  
8 enforcement officer. No A person charged with violating this  
10 subsection may not be adjudicated as having committed a civil  
12 violation if he the person produces in court the concealed  
firearms permit which that was valid at the time of the issuance  
of a summons to court or, if he the person exhibits the permit to  
a law enforcement officer designated by the summoning officer  
not later than 24 hours before the time set for the court  
appearance, he a complaint may not be issued.

12. **Permit for a resident of 5 or more years to be issued  
or denied within 30 days; permit for a nonresident and resident  
of less than 5 years to be issued or denied within 60 days.** The  
issuing authority, as defined in this chapter, shall issue or  
deny, and reply in writing as to the reason for any denial,  
within 30 days of the application date in the case of a state  
resident of 5 or more years and within 60 days of the application  
date in the case of a nonresident or in the case of a resident of  
less than 5 years.

24 **Sec. 6. 25 MRSA §2005, sub-§2, as amended by PL 1989, c. 917,  
§14, is repealed and the following enacted in its place:**

26 **2. Change of residence. Except as provided in paragraph A,  
28 change of legal residence during the term of the permit renders  
30 the permit invalid starting 30 days after the change is made. An  
32 invalid permit is not considered revoked for the purposes of  
subsection 3.**

34 **A. If the permit holder changes legal residence during the  
36 term of the permit, the permit remains valid if the holder  
38 provides a new address to the issuing authority within 30  
days of making that change. The issuing authority shall  
immediately reissue the permit with the corrected address  
for a fee of not more than \$2.**

40 **Sec. 7. 25 MRSA §2005-A, sub-§4, as enacted by PL 1989, c.  
42 917, §16, is amended to read:**

44 **4. Suspension terminated. If the permit holder is  
46 acquitted of the ~~eximinal~~ charges to which the refusal pertains,  
48 if the charges are dismissed by the State or by the court or if a  
determination of no probable cause is made, the suspension is  
terminated and the court or the State shall promptly notify the  
issuing authority in writing. Upon receipt of the written notice  
the issuing authority shall return the permit.**

50 **Sec. 8. 25 MRSA §2006, 2nd ¶, as enacted by PL 1985, c. 478,  
52 §2, is amended to read:**

