

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1546

H.P. 1132

House of Representatives, April 10, 2003

**An Act To Amend Certain Provisions Relating to a Permit To Carry
Concealed Firearms To Be Consistent with Changes to the Statute
Relating to Possession of Firearms by Prohibited Persons**

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CARR of Lincoln.
Cosponsored by Representative: SNOWE-MELLO of Poland.

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

2
4 **Sec. 1. 25 MRSA §2002, sub-§1-A** is enacted to read:

6 1-A. Conviction. "Conviction" means the acceptance of a
8 plea of guilty or nolo contendere or a verdict or finding of
 guilty, or the equivalent in a juvenile case, by a court of
 competent jurisdiction.

10 **Sec. 2. 25 MRSA §2002, sub-§§10-A, 13 and 14** are enacted to
12 read:

14 10-A. Not criminally responsible by reason of mental
 disease or defect. "Not criminally responsible by reason of
16 mental disease or defect" has the same meaning as used in Title
 17-A, section 39 and includes the former finding in this State
18 under former provisions of Title 15, section 103 of "not guilty
 by reason of mental disease or defect excluding responsibility"
20 as well as any comparable finding under the laws of the United
 States or any other state.

22 13. State and state. "State" means the State of Maine and
24 "state" means any other state of the United States and includes
 the District of Columbia, the Commonwealth of Puerto Rico and the
 possessions of the United States.

26 14. Use of a dangerous weapon. "Use of a dangerous weapon"
28 has the same meaning as in Title 17-A, section 2, subsection 9,
 paragraph A.

30 **Sec. 3. 25 MRSA §2003, sub-§1, ¶B,** as enacted by PL 1985, c.
32 478, §2, is repealed and the following enacted in its place:

34 B. Is not disqualified to possess a firearm pursuant to
 Title 15, section 393 and is not disqualified as a permit
36 holder under that same section.

38 **Sec. 4. 25 MRSA §2003, sub-§1, ¶D,** as amended by PL 1993, c.
40 524, §§6 and 7, is further amended by repealing and replacing
 subparagraph (5) to read:

42 (5) Answers to the following questions:

44 (a) Are you less than 18 years of age?

46 (b) Is there a formal charging instrument now
48 pending against you in this State for a crime
50 under the laws of this State that is punishable by
 imprisonment for a term of one year or more?

2 (c) Is there a formal charging instrument now
4 pending against you in any federal court for a
6 crime under the laws of the United States that is
8 punishable by imprisonment for a term exceeding
10 one year?

12 (d) Is there a formal charging instrument now
14 pending against you in another state for a crime
16 that, under the laws of that state, is punishable
18 by a term of imprisonment exceeding one year?

20 (e) If your answer to the question in division
22 (d) is "yes," is that charged crime classified
24 under the laws of that state as a misdemeanor
26 punishable by a term of imprisonment of 2 years or
28 less?

30 (f) Is there a formal charging instrument pending
32 against you in another state for a crime
34 punishable in that state by a term of imprisonment
36 of 2 years or less and classified by that state as
38 a misdemeanor, but that is substantially similar
40 to a crime that under the laws of this State is
42 punishable by imprisonment for a term of one year
44 or more?

46 (g) Is there a formal charging instrument now
48 pending against you under the laws of the United
50 States, this State or any other state or the
Passamaquoddy Tribe or Penobscot Nation in a
proceeding in which the prosecuting authority has
pleaded that you committed the crime with the use
of a firearm against a person or with the use of a
dangerous weapon as defined in Title 17-A, section
2, subsection 9, paragraph A?

(h) Is there a formal charging instrument now
pending against you in this or any other
jurisdiction for a juvenile offense that, if
committed by an adult, would be a crime described
in division (b), (c), (d) or (f) and involves
bodily injury or threatened bodily injury against
another person?

(i) Is there a formal charging instrument now
pending against you in this or any other
jurisdiction for a juvenile offense that, if
committed by an adult, would be a crime described
in division (g)?

2 (j) Is there a formal charging instrument now
4 pending against you in this or any other
6 jurisdiction for a juvenile offense that, if
8 committed by an adult, would be a crime described
10 in division (b), (c), (d) or (f), but does not
12 involve bodily injury or threatened bodily injury
14 against another person?

16 (k) Have you ever been convicted of committing or
18 found not criminally responsible by reason of
20 mental disease or defect of committing a crime
22 described in division (b), (c), (f) or (g)?

24 (l) Have you ever been convicted of committing or
26 found not criminally responsible by reason of
28 mental disease or defect of committing a crime
30 described in division (d)?

32 (m) If your answer to the question in division
34 (l) is "yes," was that crime classified under the
36 laws of that state as a misdemeanor punishable by
38 a term of imprisonment of 2 years or less?

40 (n) Have you ever been adjudicated as having
42 committed a juvenile offense described in division
44 (h) or (i)?

46 (o) Have you ever been adjudicated as having
48 committed a juvenile offense described in division
50 (j)?

(p) Are you currently subject to an order of a
Maine court or an order of a court of the United
States or another state, territory, commonwealth
or tribe that restrains you from harassing,
stalking or threatening your intimate partner, as
defined in 18 United States Code, Section 921(a),
or a child of your intimate partner, or from
engaging in other conduct that would place your
intimate partner in reasonable fear of bodily
injury to that intimate partner or the child?

(q) Are you a fugitive from justice?

(r) Are you a drug abuser, drug addict or drug
dependent person?

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

- 2 (t) Have you been adjudicated to be an
3 incapacitated person pursuant to Title 18-A,
4 Article 5, Parts 3 and 4 and not had that
5 designation removed by an order under Title 18-A,
6 section 5-307, subsection (b)?
- 7 (u) Have you been dishonorably discharged from
8 the military forces within the past 5 years?
- 9 (v) Are you an illegal alien?
- 10 (w) Have you been convicted in a Maine court of a
11 violation of Title 17-A, section 1057 within the
12 past 5 years?
- 13 (x) Have you been adjudicated in a Maine court
14 within the past 5 years as having committed a
15 juvenile offense involving conduct that, if
16 committed by an adult, would be a violation of
17 Title 17-A, section 1057?
- 18 (y) To your knowledge, have you been the subject
19 of an investigation by any law enforcement agency
20 within the past 5 years regarding the alleged
21 abuse by you of family or household members?
- 22 (z) Have you been convicted in any jurisdiction
23 within the past 5 years of 3 or more crimes
24 punishable by a term of imprisonment of less than
25 one year or of crimes classified under the laws of
26 a state as a misdemeanor and punishable by a term
27 of imprisonment of 2 years or less?
- 28 (aa) Have you been adjudicated in any
29 jurisdiction within the past 5 years to have
30 committed 3 or more juvenile offenses described in
31 division (o)?
- 32 (bb) To your knowledge, have you engaged within
33 the past 5 years in reckless or negligent conduct
34 that has been the subject of an investigation by a
35 governmental entity?
- 36 (cc) Have you been convicted in a Maine court
37 within the past 5 years of any Title 17-A, chapter
38 45 drug crime?
- 39 (dd) Have you been adjudicated in a Maine court
40 within the past 5 years as having committed a
41 juvenile offense involving conduct that, if
42 committed by an adult, would be a violation of
43 Title 17-A, section 1057?
44 (ee) Have you been convicted in a Maine court
45 within the past 5 years of any Title 17-A, chapter
46 45 drug crime?
47 (ff) Have you been convicted in a Maine court
48 within the past 5 years of any Title 17-A, chapter
49 45 drug crime?
50 (gg) Have you been convicted in a Maine court
51 within the past 5 years of any Title 17-A, chapter
52 45 drug crime?

2 committed by an adult, would have been a violation
3 of Title 17-A, chapter 45?

4 (ee) Have you been adjudged in a Maine court to
5 have committed the civil violation of possession
6 of a useable amount of marijuana, butyl nitrite or
7 isobutyl nitrite in violation of Title 22, section
8 2383 within the past 5 years?

10 (ff) Have you been adjudicated in a Maine court
11 within the past 5 years as having committed the
12 juvenile crime defined in Title 15, section 3103,
13 subsection 1, paragraph B of possession of a
14 useable amount of marijuana, as provided in Title
15 22, section 2383?; and

16 **Sec. 5. 25 MRSA §2003, sub-§2, ¶A-1**, as amended by PL 2001, c.
18 549, §6, is further amended to read:

20 A-1. That the applicant understands that an affirmative
21 answer to the question in subsection 1, paragraph D,
22 subparagraph (5), division ~~(e)~~-~~(e-1)~~ (l) or (o) is cause
23 for refusal unless the applicant is nonetheless authorized
24 to possess a firearm under Title 15, section 393;

26 **Sec. 6. 25 MRSA §2003, sub-§2, ¶A-2** is enacted to read:

28 A-2. That the applicant understands that an affirmative
29 answer to subsection 1, paragraph D, subparagraph (5),
30 division (p) is cause for refusal if the order of the court
31 meets the preconditions contained in Title 15, section 393,
32 subsection 1, paragraph D. If the order of the court does
33 not meet the preconditions, the conduct underlying the order
34 may be used by the issuing authority, along with other
35 information, in judging good moral character under
36 subsection 4;

38 **Sec. 7. 25 MRSA §2003, sub-§2, ¶B**, as amended by PL 2001, c.
40 549, §7, is further amended to read:

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

46 **Sec. 8. 25 MRSA §2003, sub-§2, ¶B-1**, as amended by PL 1993, c.
48 524, §9, is further amended to read:

50 B-1. That the applicant understands that an affirmative
answer to one or more of the questions in subsection 1,

2 paragraph D, subparagraph (5), divisions ~~(a), (b), (b-1),~~
~~(e-1), (l), (m), (n) and (o) to (s)~~ (b) to (j), (m), (y),
4 (z) or (aa) to (ff) is used by the issuing authority, along
with other information, in judging good moral character
6 under subsection 4; and

8 SUMMARY

10 This bill amends the requirements for the issuance of a
12 permit to carry concealed firearms by the issuing authority to
incorporate into the requirements the recent changes made to the
14 Maine Revised Statutes, Title 15, section 393 relating to
possession of firearms by prohibited persons pursuant to Public
16 Law 2001, chapter 549. Additionally, this bill adds a permit to
carry firearms provision in Title 25, section 2002 definitions
18 for "conviction," "not criminally responsible by reason of mental
disease or defect," "State," "state" and "use of dangerous
20 weapon." Each definition is contained in Title 15, section 393.