

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1176

H.P. 874

House of Representatives, March 17, 2011

An Act To Enhance Reciprocity Agreements Regarding Permits To Carry Concealed Firearms

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CEBRA of Naples.
Cosponsored by Senator COLLINS of York and
Representatives: CLARK of Millinocket, CRAFTS of Lisbon, CRAY of Palmyra,
CROCKETT of Bethel, GIFFORD of Lincoln, HANLEY of Gardiner, SARTY of Denmark,
TIMBERLAKE of Turner.

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

2 **Sec. 1. 25 MRSA §2003, sub-§1**, as amended by PL 2007, c. 194, §5, is further
3 amended to read:

4 **1. Criteria for issuing permit.** The issuing authority shall, upon written
5 application, issue a permit to carry concealed firearms to an applicant over whom it has
6 issuing authority and who ~~has demonstrated good moral character and who~~ meets the
7 following requirements:

8 A. Is 18 years of age or older;

9 B. Is not disqualified to possess a firearm pursuant to Title 15, section 393, is not
10 disqualified as a permit holder under that same section and is not disqualified to
11 possess a firearm based on federal law as a result of a criminal conviction;

12 D. Submits an application that contains the following:

13 (1) Full name;

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

15 (3) The date and place of birth, height, weight, color of eyes, color of hair, sex
16 and race;

17 (4) A record of previous issuances of, refusals to issue and revocations of a
18 permit to carry concealed firearms or other concealed weapons by any issuing
19 authority in the State or any other jurisdiction. The record of previous refusals
20 alone does not constitute cause for refusal and the record of previous revocations
21 alone constitutes cause for refusal only as provided in section 2005; and

22 (5) Answers to the following questions:

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

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

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

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

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

36 (f) Is there a formal charging instrument pending against you in another state
37 for a crime punishable in that state by a term of imprisonment of 2 years or
38 less and classified by that state as a misdemeanor, but that is substantially

- 1 similar to a crime that under the laws of this State is punishable by
2 imprisonment for a term of one year or more?
- 3 (g) Is there a formal charging instrument now pending against you under the
4 laws of the United States, this State or any other state or the Passamaquoddy
5 Tribe or Penobscot Nation in a proceeding in which the prosecuting authority
6 has pleaded that you committed the crime with the use of a firearm against a
7 person or with the use of a dangerous weapon as defined in Title 17-A,
8 section 2, subsection 9, paragraph A?
- 9 (h) Is there a formal charging instrument now pending against you in this or
10 any other jurisdiction for a juvenile offense that, if committed by an adult,
11 would be a crime described in division (b), (c), (d) or (f) and involves bodily
12 injury or threatened bodily injury against another person?
- 13 (i) Is there a formal charging instrument now pending against you in this or
14 any other jurisdiction for a juvenile offense that, if committed by an adult,
15 would be a crime described in division (g)?
- 16 (j) Is there a formal charging instrument now pending against you in this or
17 any other jurisdiction for a juvenile offense that, if committed by an adult,
18 would be a crime described in division (b), (c), (d) or (f), but does not
19 involve bodily injury or threatened bodily injury against another person?
- 20 (k) Have you ever been convicted of committing or found not criminally
21 responsible by reason of mental disease or defect of committing a crime
22 described in division (b), (c), (f) or (g)?
- 23 (l) Have you ever been convicted of committing or found not criminally
24 responsible by reason of mental disease or defect of committing a crime
25 described in division (d)?
- 26 (m) If your answer to the question in division (l) is "yes," was that crime
27 classified under the laws of that state as a misdemeanor punishable by a term
28 of imprisonment of 2 years or less?
- 29 (n) Have you ever been adjudicated as having committed a juvenile offense
30 described in division (h) or (i)?
- 31 (o) Have you ever been adjudicated as having committed a juvenile offense
32 described in division (j)?
- 33 (p) Are you currently subject to an order of a Maine court or an order of a
34 court of the United States or another state, territory, commonwealth or tribe
35 that restrains you from harassing, stalking or threatening your intimate
36 partner, as defined in 18 United States Code, Section 921(a), or a child of
37 your intimate partner, or from engaging in other conduct that would place
38 your intimate partner in reasonable fear of bodily injury to that intimate
39 partner or the child?
- 40 (q) Are you a fugitive from justice?
- 41 (r) Are you a drug abuser, drug addict or drug dependent person?

- 1 (s) Do you have a mental disorder that causes you to be potentially
2 dangerous to yourself or others?
- 3 (t) Have you been adjudicated to be an incapacitated person pursuant to Title
4 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an
5 order under Title 18-A, section 5-307, subsection (b)?
- 6 (u) Have you been dishonorably discharged from the military forces within
7 the past 5 years?
- 8 (v) Are you an illegal alien?
- 9 (w) Have you been convicted in a Maine court of a violation of Title 17-A,
10 section 1057 within the past 5 years?
- 11 (x) Have you been adjudicated in a Maine court within the past 5 years as
12 having committed a juvenile offense involving conduct that, if committed by
13 an adult, would be a violation of Title 17-A, section 1057?
- 14 (y) To your knowledge, have you been the subject of an investigation by any
15 law enforcement agency within the past 5 years regarding the alleged abuse
16 by you of family or household members?
- 17 (z) Have you been convicted in any jurisdiction within the past 5 years of 3
18 or more crimes punishable by a term of imprisonment of less than one year or
19 of crimes classified under the laws of a state as a misdemeanor and
20 punishable by a term of imprisonment of 2 years or less?
- 21 (aa) Have you been adjudicated in any jurisdiction within the past 5 years to
22 have committed 3 or more juvenile offenses described in division (o)?
- 23 (bb) To your knowledge, have you engaged within the past 5 years in
24 reckless or negligent conduct that has been the subject of an investigation by
25 a governmental entity?
- 26 (cc) Have you been convicted in a Maine court within the past 5 years of any
27 Title 17-A, chapter 45 drug crime?
- 28 (dd) Have you been adjudicated in a Maine court within the past 5 years as
29 having committed a juvenile offense involving conduct that, if committed by
30 an adult, would have been a violation of Title 17-A, chapter 45?
- 31 (ee) Have you been adjudged in a Maine court to have committed the civil
32 violation of possession of a useable amount of marijuana, butyl nitrite or
33 isobutyl nitrite in violation of Title 22, section 2383 within the past 5 years?
- 34 (ff) Have you been adjudicated in a Maine court within the past 5 years as
35 having committed the juvenile crime defined in Title 15, section 3103,
36 subsection 1, paragraph B of possession of a useable amount of marijuana, as
37 provided in Title 22, section 2383?; and

38 E. Does the following:

- 39 (1) At the request of the issuing authority, takes whatever action is required by
40 law to allow the issuing authority to obtain from the Department of Health and

1 Human Services, limited to records of patient committals to Riverview
2 Psychiatric Center and Dorothea Dix Psychiatric Center, the courts, law
3 enforcement agencies and the military information relevant to the following:

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

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

8 (c) Section 2005;

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

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

13 (4) Submits an application fee along with the written application to the proper
14 issuing authority pursuant to the following schedule:

15 (a) Resident of a municipality or unorganized territory, \$35 for an original
16 application and \$20 for a renewal, except that a person who paid \$60 for a
17 concealed firearms permit or renewal during 1991 or 1992 is entitled to a
18 credit toward renewal fees in an amount equal to \$30 for a person who paid
19 \$60 for an original application and \$45 for a person who paid \$60 for a
20 permit renewal. The credit is valid until fully utilized; and

21 (b) Nonresident, \$60 for an original or renewal application, except that a
22 person who paid \$80 for a concealed firearms permit during 1991 or 1992 is
23 entitled to a \$20 credit toward permit renewal fees. The credit is valid until
24 fully utilized; and

25 (5) Demonstrates to the issuing authority a knowledge of handgun safety. The
26 applicant may fully satisfy this requirement by submitting to the issuing
27 authority, through documentation in accordance with this subparagraph, proof
28 that the applicant has within 5 years prior to the date of application completed a
29 course that included handgun safety offered by or under the supervision of a
30 federal, state, county or municipal law enforcement agency or a firearms
31 instructor certified by a private firearms association recognized as knowledgeable
32 in matters of firearms safety by the issuing authority or by the state in which the
33 course was taken. A course completion certificate or other document, or a
34 photocopy, is sufficient if it recites or otherwise demonstrates that the course
35 meets all of the requirements of this subparagraph.

36 As an alternative way of fully satisfying this requirement, an applicant may
37 personally demonstrate knowledge of handgun safety to an issuing authority, if
38 the issuing authority is willing to evaluate an applicant's personal demonstration
39 of such knowledge. The issuing authority is not required to offer this 2nd option.

40 The demonstration of knowledge of handgun safety to the issuing authority may
41 not be required of any applicant who holds a valid State state permit to carry a
42 concealed firearm as of April 15, 1990 or of any applicant who was or is in any

1 of the Armed Forces of the United States and has received at least basic firearms
2 training.

3 **Sec. 2. 25 MRSA §2003, sub-§2, ¶A-2**, as enacted by PL 2003, c. 341, §6, is
4 amended to read:

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

11 **Sec. 3. 25 MRSA §2003, sub-§2, ¶B**, as amended by PL 2003, c. 341, §7, is
12 further amended to read:

13 B. That the applicant understands that an affirmative answer to one or more of the
14 questions in subsection 1, paragraph D, subparagraph (5), divisions (a), (k), (n) or (q)
15 to (x) is cause for refusal; and

16 **Sec. 4. 25 MRSA §2003, sub-§2, ¶B-1**, as amended by PL 2003, c. 341, §8, is
17 repealed.

18 **Sec. 5. 25 MRSA §2003, sub-§4**, as amended by PL 1995, c. 694, Pt. D, §51 and
19 affected by Pt. E, §2, is repealed.

20 **Sec. 6. 25 MRSA §2003, sub-§5**, as amended by PL 1995, c. 694, Pt. D, §52 and
21 affected by Pt. E, §2 and amended by PL 2005, c. 236, §§3 and 4, is further amended to
22 read:

23 **5. Access to confidential records.** Notwithstanding that certain records retained by
24 governmental entities are by law made confidential, the records pertaining to patient
25 committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and
26 records compiled pursuant to Title 19-A, section 4012, subsection 1, that are necessary to
27 the issuing authority's determination of the applicant's ~~good moral character and~~
28 ~~compliance with the additional~~ requirements of this section and of section 2005 must, at
29 the request of the issuing authority, be made available for inspection by and
30 dissemination to the issuing authority.

31 **Sec. 7. 25 MRSA §2006, first ¶**, as enacted by PL 1985, c. 478, §2, is amended
32 to read:

33 Notwithstanding Title 1, sections 401 to 410, all applications for a permit to carry
34 concealed firearms and documents made a part of the application, refusals and any
35 information of record collected by the issuing agency during the process of ascertaining
36 whether an applicant ~~is of good moral character and~~ meets the ~~additional~~ requirements of
37 sections 2003 and 2005, are confidential and may not be made available for public
38 inspection or copying. The applicant may waive this confidentiality by written notice to
39 the issuing authority. All proceedings relating to the issuance, refusal or revocation of a

1 permit to carry concealed firearms are not public proceedings under Title 1, chapter 13,
2 unless otherwise requested by the applicant.

3

SUMMARY

4 The purpose of this bill is to enhance reciprocity with other states by removing the
5 requirement that an applicant for a concealed firearms permit demonstrate that the
6 applicant is of "good moral character."