

MAINE STATE LEGISLATURE

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L.D. 823

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Date: 6-10-15

(Filing No. H-388)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "B" to H.P. 557, L.D. 823, Bill, "An Act To Upgrade the Concealed Handgun Permit Law"

Amend the bill by striking out all of sections 3 and 4 and inserting the following:

Sec. 3. 25 MRSA §2003, sub-§1, as amended by PL 2011, c. 298, §7, is further amended to read:

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

- A. Is 18 years of age or older;
- B. Is not disqualified to possess a firearm pursuant to Title 15, section 393, is not disqualified as a permit holder under that same section and is not disqualified to possess a firearm based on federal law as a result of a criminal conviction;
- D. Submits an application that contains the following:
 - (1) Full name;
 - (2) Full current address and addresses for the prior 5 years;
 - (3) The date and place of birth, height, weight, color of eyes, color of hair, sex and race;
 - (4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms, handguns or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of previous refusals alone does not constitute cause for refusal and the record of previous revocations alone constitutes cause for refusal only as provided in section 2005; and
 - (5) Answers to the following questions:
 - (a) Are you less than 18 years of age?

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- 1 (b) Is there a formal charging instrument now pending against you in this
2 State for a crime under the laws of this State that is punishable by
3 imprisonment for a term of one year or more?
- 4 (c) Is there a formal charging instrument now pending against you in any
5 federal court for a crime under the laws of the United States that is
6 punishable by imprisonment for a term exceeding one year?
- 7 (d) Is there a formal charging instrument now pending against you in another
8 state for a crime that, under the laws of that state, is punishable by a term of
9 imprisonment exceeding one year?
- 10 (e) If your answer to the question in division (d) is "yes," is that charged
11 crime classified under the laws of that state as a misdemeanor punishable by
12 a term of imprisonment of 2 years or less?
- 13 (f) Is there a formal charging instrument pending against you in another state
14 for a crime punishable in that state by a term of imprisonment of 2 years or
15 less and classified by that state as a misdemeanor, but that is substantially
16 similar to a crime that under the laws of this State is punishable by
17 imprisonment for a term of one year or more?
- 18 (g) Is there a formal charging instrument now pending against you under the
19 laws of the United States, this State or any other state or the Passamaquoddy
20 Tribe or Penobscot Nation in a proceeding in which the prosecuting authority
21 has pleaded that you committed the crime with the use of a firearm against a
22 person or with the use of a dangerous weapon as defined in Title 17-A,
23 section 2, subsection 9, paragraph A?
- 24 (h) Is there a formal charging instrument now pending against you in this or
25 any other jurisdiction for a juvenile offense that, if committed by an adult,
26 would be a crime described in division (b), (c), (d) or (f) and involves bodily
27 injury or threatened bodily injury against another person?
- 28 (i) Is there a formal charging instrument now pending against you in this or
29 any other jurisdiction for a juvenile offense that, if committed by an adult,
30 would be a crime described in division (g)?
- 31 (j) Is there a formal charging instrument now pending against you in this or
32 any other jurisdiction for a juvenile offense that, if committed by an adult,
33 would be a crime described in division (b), (c), (d) or (f), but does not
34 involve bodily injury or threatened bodily injury against another person?
- 35 (k) Have you ever been convicted of committing or found not criminally
36 responsible by reason of mental disease or defect of committing a crime
37 described in division (b), (c), (f) or (g)?
- 38 (l) Have you ever been convicted of committing or found not criminally
39 responsible by reason of mental disease or defect of committing a crime
40 described in division (d)?

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

- 4 (n) Have you ever been adjudicated as having committed a juvenile offense
- 5 described in division (h) or (i)?

- 6 (o) Have you ever been adjudicated as having committed a juvenile offense
- 7 described in division (j)?

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

- 15 (q) Are you a fugitive from justice?

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

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

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

- 22 (u) Have you been dishonorably discharged from the military forces within
- 23 the past 5 years?

- 24 (v) Are you an illegal alien?

- 25 (w) Have you been convicted in a Maine court of a violation of Title 17-A,
- 26 section 1057 within the past 5 years?

- 27 (x) Have you been adjudicated in a Maine court within the past 5 years as
- 28 having committed a juvenile offense involving conduct that, if committed by
- 29 an adult, would be a violation of Title 17-A, section 1057?

- 30 (y) To your knowledge, have you been the subject of an investigation by any
- 31 law enforcement agency within the past 5 years regarding the alleged abuse
- 32 by you of family or household members?

- 33 (z) Have you been convicted in any jurisdiction within the past 5 years of 3
- 34 or more crimes punishable by a term of imprisonment of less than one year or
- 35 of crimes classified under the laws of a state as a misdemeanor and
- 36 punishable by a term of imprisonment of 2 years or less?

- 37 (aa) Have you been adjudicated in any jurisdiction within the past 5 years to
- 38 have committed 3 or more juvenile offenses described in division (o)?

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

(cc) Have you been convicted in a Maine court within the past 5 years of any Title 17-A, chapter 45 drug crime?

(dd) Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would have been a violation of Title 17-A, chapter 45?

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

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

E. Does the following:

(1) At the request of the issuing authority, takes whatever action is required by law to allow the issuing authority to obtain from the Department of Health and Human Services, limited to records of patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, the courts, law enforcement agencies and the military information relevant to the following:

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

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

(c) Section 2005;

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

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

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

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

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(b) Nonresident, \$60 for an original or renewal application; and

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

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

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

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

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

Sec. 5. 25 MRSA §2003, sub-§2, ¶B, as amended by PL 2003, c. 341, §7, is further amended to read:

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

Sec. 6. 25 MRSA §2003, sub-§2, ¶B-1, as amended by PL 2003, c. 341, §8, is repealed.

Sec. 7. 25 MRSA §2003, sub-§3-A, as amended by PL 2011, c. 298, §7, is further amended to read:

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

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- 1 A. An application for a resident permit to carry concealed handguns;
 - 2 B. An application for a nonresident permit to carry concealed handguns;
 - 3 C. A resident permit to carry concealed handguns of which a photograph is an
 - 4 integral part;
 - 5 D. A resident permit to carry concealed handguns of which a photograph is not an
 - 6 integral part;
 - 7 E. A nonresident permit to carry concealed handguns; and
 - 8 F. Authority to release information to the issuing authority for the purpose of
 - 9 evaluating information supplied on the application.
- 10 ~~Each~~ The issuing authority shall utilize only the model forms.

11 **Sec. 8. 25 MRSA §2003, sub-§4**, as amended by PL 1995, c. 694, Pt. D, §51 and
12 affected by Pt. E, §2, is repealed.

13 **Sec. 9. 25 MRSA §2003, sub-§5**, as amended by PL 1995, c. 694, Pt. D, §52 and
14 affected by Pt. E, §2 and amended by PL 2005, c. 236, §§3 and 4, is further amended to
15 read:

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

24 **Sec. 10. 25 MRSA §2003, sub-§8**, as amended by PL 2011, c. 298, §7, is further
25 amended to read:

26 **8. Term of permit.** All concealed handgun permits are valid for ~~4-~~ 10 years from
27 the date of issue, unless sooner revoked for cause by the issuing authority. If a permit
28 renewal is issued before the expiration date of the permit being renewed or within 6
29 months of the expiration date of the permit being renewed, the permit renewal is valid for
30 4- 10 years from the expiration date of the permit being renewed.'

31 Amend the bill by striking out all of section 6 (page 3, lines 1 and 2 in L.D.) and
32 inserting the following:

33 '**Sec. 6. 25 MRSA §2003, sub-§15**, as amended by PL 2015, c. 123, §1, is
34 repealed.'

35 Amend the bill by inserting after section 8 the following:

36 '**Sec. 9. 25 MRSA §2006, sub-§1**, as enacted by PL 2013, c. 54, §1, is amended
37 to read:

38 **1. Application, refusals and collected information; proceedings.** All applications
39 for a permit to carry concealed handguns and documents made a part of the application,
40 refusals and any information of record collected by the issuing authority during the

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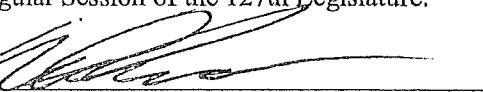
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1 process of ascertaining whether an applicant ~~is of good moral character and~~ meets the
2 ~~additional~~ requirements of sections 2003 and 2005 are confidential and are not public
3 records for the purposes of Title 1, chapter 13, subchapter 1. The applicant may waive
4 this confidentiality by written notice to the issuing authority. All proceedings relating to
5 the issuance, refusal, suspension or revocation of a permit to carry concealed handguns
6 are not public proceedings under Title 1, chapter 13, unless otherwise requested by the
7 applicant.'

8 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
9 section number to read consecutively.

10 **SUMMARY**

11 This amendment removes all references to good moral character in the law governing
12 permits to carry concealed handguns. It also corrects a legislative history to reflect action
13 taken by the First Regular Session of the 127th Legislature.

14 **SPONSORED BY:** 

15 **(Representative SHAW)**

16 **TOWN: Standish**

FISCAL NOTE REQUIRED
(See attached)



Approved: 06/10/15 *MRC*

127th MAINE LEGISLATURE

LD 823

LR 1599(05)

An Act To Upgrade the Concealed Handgun Permit Law

Fiscal Note for House Amendment *B* to Original Bill
Sponsor: Rep. Shaw of Standish
Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - General Fund
Potential current biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This amendment repeals the provisions of law requiring a review of good moral character prior to issuing a concealed weapons permit and may increase permits issued, resulting in an increase in General Fund and Other Special Revenue Funds revenue.