

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

Sec. 3. Study. The Joint Standing Committee on Taxation shall study the railroad excise tax, including the treatment of long-term freight car leases and shall submit a report to the Second Regular Session of the 112th Legislature, containing recommendations for any necessary changes in the tax, including permanent retention of the treatment of long-term freight car leases.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund in order to carry out the purposes of this Act.

1985-86

LEGISLATURE

Personal Services	\$1,950
All Other	<u>4,675</u>
Total	\$6,625

Effective September 19, 1985.

CHAPTER 478

S.P. 331 - L.D. 819

AN ACT to Amend the Concealed Weapons Law.

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

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

2. Application after 5 years. Any person subject to the provisions of subsection 1 may, after the expiration of 5 years from the date that the person is finally discharged from any and all sentences imposed as a result of the conviction, apply to the Commissioner of Public Safety for a permit to carry a firearm. Such a person shall not be issued a license to carry a concealed firearm or other weapon pursuant to Title 25, ~~section 203~~ chapter 253-A.

Sec. 2. 25 MRSA c. 252 is enacted to read:

CHAPTER 252

PERMITS TO CARRY CONCEALED FIREARMS

§2001. Threatening display of or carrying a concealed weapon

No person may display in a threatening manner, or wear under his clothes or conceal about his person, 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.

The provisions of this section concerning the carrying of concealed weapons do not apply to:

1. Permit issued. Persons to whom a valid permit to carry a concealed firearm has been issued as provided in this chapter;

2. Disabling chemicals. Disabling chemicals as described in Title 17-A, section 1002;

3. Hunting knives. Knives used for the purposes of hunting, fishing or trapping as defined in Title 12, section 7001;

4. Law enforcement officers and corrections officers. Law enforcement officers and corrections officers as permitted in writing by their employer; or

5. Private investigators. Private investigators licensed under the laws of this State.

§2002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Corrections officer. "Corrections officer" has the same meaning as set forth in section 2805, subsection 2, paragraph C, subparagraph (1).

2. Dependency related drug. "Dependency related drug" has the same meaning as set forth in Title 22, section 7103, subsection 7.

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

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

5. Drug dependent person. "Drug dependent per-

son" has the same meaning as set forth in Title 22, section 7103, subsection 12.

6. Firearm. "Firearm" has the same meaning as set forth in Title 17-A, section 2, subsection 12-A.

7. Formal charging instrument. "Formal charging instrument" means a complaint, indictment, information, juvenile petition or other formal written accusation against a person for some criminal or juvenile offense.

8. Fugitive from justice. "Fugitive from justice" has the same meaning as set forth in Title 15, section 201, subsection 4.

9. Issuing authority. "Issuing authority" means the mayor and aldermen or councilors of a city, the selectmen or councilors of a town or the assessors of a plantation or, if they so choose, their full-time chief of police as their designee.

10. Law enforcement officer. "Law enforcement officer" has the same meaning as set forth in Title 17-A, section 2, subsection 17.

11. Reckless or negligent conduct. "Reckless or negligent conduct" means that the applicant, either consciously disregarding or failing to be aware of a risk that his conduct would cause such a result, engaged in conduct which in fact created a substantial risk of death, serious bodily injury or bodily injury to another human being and the 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, involved a deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

§2003. Permits to carry concealed firearms

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

A. Is 18 years of age or older;

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

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

D. Submits an application which 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 and color of eyes;

(4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms by any issuing authority. 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 the following questions:

(a) 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, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(b) 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, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(c) Have you ever been convicted of a crime described in division (a) or ad-

judicated as having committed a juvenile offense as described in division (b)?

(d) Are you a fugitive from justice?

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

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

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

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

(i) Are you an illegal alien?

E. Does the following:

(1) At the request of the issuing authority, takes whatever action is required of him by law to allow the issuing authority to obtain from the Department of Mental 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:

(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 firearms adopted by an issuing authority, submits to being photographed for that purpose;

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

(4) Submits an application fee not to exceed \$20 for an original application and \$10 for a renewal for a resident of the State. 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 issued by the issuing authority.

2. Complete application; certification by applicant. The requirements set out in subsection 1, constitute a complete application. By affixing his signature to the application, the applicant certifies the following:

A. That the statements he makes in the application and any documents he makes a part of the application, are true and correct;

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

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

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

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

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

B. Information of record relative to 3 or more convictions of the applicant for crimes punishable by less than one year imprisonment or one or more adjudications of the applicant for juvenile

offenses involving conduct which, if committed by an adult, is punishable by less than one year imprisonment; or

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

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

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

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

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

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

10. Validity of permit throughout the State. Permits issued authorize the person to carry those

concealed firearms throughout the State.

11. Permit to be in permit holder's immediate possession. Every permit holder shall have his permit in his immediate possession at all times when carrying a concealed firearm and shall display the same on demand of any law enforcement officer. No person charged with violating this subsection may be adjudicated as having committed a civil violation if he produces in court the concealed firearms permit which was valid at the time of the issuance of a summons to court or, if he 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, no complaint may 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 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.

§2004. Penalty

Whoever intentionally or knowingly makes any false statements in the written application or any documents made a part of the application or violates any provisions of section 2001 is guilty of a Class D crime.

Whoever fails to comply with section 2003, subsection 11, commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

Whoever intentionally or knowingly violates the confidentiality provisions of section 2006 is guilty of a Class E crime.

§2005. Revocation; change of residence

1. Revocation. The issuing authority shall revoke a permit on the basis of one or more of the following determinations:

A. The application or any documents made part of the application contained a material misstatement;

B. The permit holder has been convicted of a violation of section 2001; or

C. The permit holder becomes ineligible to possess a permit under this chapter. Ineligibility is determined on the basis of the criteria contained in section 2003.

2. Change of residence. Except as provided in paragraph A, change of legal residence from one municipality to another during the term of the permit renders the permit invalid starting 30 days after the change is made. An invalid permit is not considered revoked for the purposes of subsection 3.

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

3. Reapplication. No person, otherwise eligible, who has had a permit revoked, is eligible for reapplication until the expiration of 5 years from the date of revocation.

§2006. Confidentiality of application; penalty

Notwithstanding Title 1, sections 401 to 410, all applications for a permit to carry concealed firearms and documents made a part of the application, refusals and any information of record collected by the issuing agency during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 2003 and 2005, are confidential and may not be made available for public inspection or copying. The applicant may waive this confidentiality by written notice to the issuing authority. All proceedings relating to the issuance, refusal or revocation of a permit to carry concealed firearms are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

The issuing authority shall make a permanent record of each permit to carry concealed firearms in a suitable book or file kept for that purpose. The record shall include the information contained in the permit itself and shall be available for public inspection.

Sec. 3. 25 MRSA c. 253, as amended, is repealed.
Effective September 19, 1985.