

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 1070 - L.D. 1439

An Act Regarding Permits To Carry Concealed Firearms

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

**Sec. 1. 12 MRSA §11403, sub-§2, ¶B**, as amended by PL 2007, c. 163, §2 and affected by §3, is further amended to read:

B. A person may not carry firearms of any kind while hunting any species of wildlife with bow and arrow during the regular archery-only season on deer, except that a person who holds a license that allows hunting with firearms may carry a handgun. This paragraph may not be construed to prohibit a person who holds a valid permit to carry a concealed ~~firearm~~ handgun pursuant to Title 25, section 2003 from carrying a ~~firearm~~ handgun.

**Sec. 2. 17-A MRSA §1057, sub-§3**, as enacted by PL 1989, c. 917, §2, is amended to read:

3. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed ~~firearm~~ handgun issued under Title 25, chapter 252.

**Sec. 3. 17-A MRSA §1057, sub-§5**, as amended by PL 2009, c. 447, §20, is further amended to read:

5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive alcohol level" means an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive alcohol level within the meaning of this section are those applicable pursuant to Title 29-A, sections 2411 and 2431; except that the suspension of a permit to carry concealed ~~firearms~~ handguns issued pursuant to Title 25, chapter 252, or of the authority of a private investigator licensed to carry a concealed ~~firearm~~ handgun pursuant to Title 32, chapter 89, is as provided in those chapters.

**Sec. 4. 25 MRSA §2001-A, sub-§2, ¶A**, as enacted by PL 2003, c. 452, Pt. N, §2 and affected by Pt. X, §2, is amended to read:

A. ~~Firearms~~ Handguns carried by a person to whom a valid permit to carry a concealed ~~firearm~~ handgun has been issued as provided in this chapter;

**Sec. 5. 25 MRSA §2001-A, sub-§2, ¶F**, as amended by PL 2007, c. 555, §1, is further amended to read:

F. A ~~firearm~~ handgun carried by a person to whom a valid permit to carry a concealed ~~firearm~~ handgun has been issued by another state if a permit to carry a concealed ~~firearm~~ handgun issued from that state has been granted reciprocity. The Chief of the State Police may enter into reciprocity agreements with any other states that meet the requirements of this paragraph. Reciprocity may be granted to a permit to carry a concealed ~~firearm~~ handgun issued from another state if:

- (1) The other state that issued the permit to carry a concealed ~~firearm~~ handgun has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed ~~firearm~~ handgun; and
- (2) The other state that issued the permit to carry a concealed ~~firearm~~ handgun observes the same rules of reciprocity regarding a person issued a permit to carry a concealed ~~firearm~~ handgun under this chapter.

**Sec. 6. 25 MRSA §2002, sub-§8-A** is enacted to read:

**8-A. Handgun.** "Handgun" means a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and that is designed to fire or is capable of firing fixed cartridge ammunition. "Handgun" does not include a shotgun or rifle that has been altered by having its stock or barrel cut or shortened or an automatic firearm that may be held with a single hand.

**Sec. 7. 25 MRSA §2003**, as amended by PL 2007, c. 194, §5, is further amended to read:

**§2003. Permits to carry concealed handguns**

**1. Criteria for issuing permit.** The issuing authority shall, upon written application, issue a permit to carry concealed ~~firearms~~ 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?

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

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

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

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

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

(g) Is there a formal charging instrument now pending against you under the laws of the United 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)?

(j) 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), but does not involve bodily injury or threatened bodily injury against another person?

- (k) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (b), (c), (f) or (g)?
- (l) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (d)?
- (m) If your answer to the question in division (l) is "yes," was that crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?
- (n) Have you ever been adjudicated as having committed a juvenile offense described in division (h) or (i)?
- (o) Have you ever been adjudicated as having committed a juvenile offense described in division (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?
- (t) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?
- (u) Have you been dishonorably discharged from the military forces within the past 5 years?
- (v) Are you an illegal alien?
- (w) Have you been convicted in a Maine court of a violation of Title 17-A, section 1057 within the past 5 years?
- (x) 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 be a violation of Title 17-A, section 1057?
- (y) To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?
- (z) Have you been convicted in any jurisdiction within the past 5 years of 3 or more crimes punishable by a term of imprisonment of less than one year or

of crimes classified under the laws of a state as a misdemeanor and punishable by a term of imprisonment of 2 years or less?

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

(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 ~~firearms~~ handguns adopted by an 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

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

(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 ~~firearms~~ 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 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~~ 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.

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

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

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

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;

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;

B-1. That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph (5), divisions (b) to (j), (m), (y), (z) or (aa) to (ff) is used by the issuing authority, along with other information, in judging good moral character under subsection 4; and

C. That the applicant understands any false statements made in the application or in 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~~ that are used in this chapter ~~shall~~ must be provided to every applicant.

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

- A. An application for a resident permit to carry concealed ~~firearms~~ handguns;
- B. An application for a nonresident permit to carry concealed ~~firearms~~ handguns;
- C. A resident permit to carry concealed ~~firearms~~ handguns of which a photograph is an integral part;
- D. A resident permit to carry concealed ~~firearms~~ handguns of which a photograph is not an integral part;
- E. A nonresident permit to carry concealed ~~firearms~~ handguns; and
- F. Authority to release information to the issuing authority for the purpose of evaluating information supplied on the application.

Each issuing authority shall utilize only the model forms.

**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-A, section 4012, 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 that, if committed by an adult, is punishable by less than one year imprisonment;
- C. Information of record indicating that the applicant has engaged in reckless or negligent conduct; or
- D. Information of record indicating that the applicant has been convicted of or adjudicated as having committed a violation of Title 17-A, chapter 45 or Title 22,

section 2383, or adjudicated as having committed a juvenile crime that is a violation of Title 22, section 2383 or a juvenile crime that would be defined as a criminal violation under Title 17-A, chapter 45 if committed by an adult.

**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 Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and records compiled pursuant to Title 19-A, section 4012, subsection 1, that 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 must, at the request of the issuing authority, be made available for inspection by and dissemination to the issuing authority.

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

**9. Information contained in permit.** Each permit to carry concealed ~~firearms~~ handguns issued ~~shall~~ must 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~~ handguns 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~~ handguns.

**10. Validity of permit throughout the State.** Permits issued authorize the person to carry those concealed ~~firearms~~ handguns throughout the State.

**11. Permit to be in permit holder's immediate possession.** Every permit holder shall have ~~his~~ the holder's permit in ~~his~~ the holder's immediate possession at all times when carrying a concealed ~~firearm~~ handgun and shall display the same on demand of any law enforcement officer. ~~No~~ A person charged with violating this subsection may not be adjudicated as having committed a civil violation if ~~he~~ that person produces in court the concealed ~~firearms~~ handgun permit ~~which~~ that was valid at the time of the issuance of a summons to court or, if ~~he~~ the holder 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~~ 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 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. If the issuing authority does not issue or deny a request for a permit renewal within the time limits specified in this subsection, the validity of the expired permit is extended until the issuing authority issues or denies the renewal.



**13. Fee waiver.** An issuing authority may waive the permit fee for a permit issued to a law enforcement officer certified by the Maine Criminal Justice Academy.

**14. Lapsed permit.** A person may apply for renewal of a permit at the permit renewal rate at any time within 6 months after expiration of a permit. A person who applies for a permit more than 6 months after the expiration date of the permit last issued to that person must submit an original application and pay the original application fee.

**15. Duty of issuing authority; application fees.** The application fees submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) are subject to the following.

A. If the issuing authority is other than the Chief of the State Police, \$25 of the fee for an original application and \$15 of the fee for a renewal must be paid over to the Treasurer of State.

B. If the Chief of the State Police is the issuing authority as the designee of a municipality under section 2002-A, \$25 of the fee for an original application and \$15 of the fee for a renewal must be paid over to the Treasurer of State.

C. If the Chief of the State Police is the issuing authority because the applicant is either a resident of an unorganized territory or a nonresident, the application fee must be paid over to the Treasurer of State. The fee must be applied to the expenses of administration incurred by the State Police.

**16. Application fee; use.** The application fee submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) covers the cost of processing the application by the issuing authority and the cost of the permit to carry concealed ~~firearms~~ handguns issued by the issuing authority.

**17. Waiver of law enforcement agency record and background check fees.** Notwithstanding any other provision of law, a law enforcement agency may not charge an issuing authority a fee in association with the law enforcement agency's conducting a concealed handgun permit applicant record check or background check for the issuing authority.

**Sec. 8. 25 MRSA §2004, sub-§1,** as enacted by PL 2003, c. 452, Pt. N, §3 and affected by Pt. X, §2, is amended to read:

**1. False statements.** A person who intentionally or knowingly makes a false statement in the written application for a permit to carry a concealed ~~firearm~~ handgun or any documents made a part of the application commits a Class D crime.

**Sec. 9. 25 MRSA §2005, sub-§2, ¶A,** as enacted by PL 1985, c. 478, §2, is amended to read:

A. If the permit holder changes ~~his~~ the permit holder's legal residence from one municipality to another during the term of the permit, the permit remains valid if ~~he~~ the permit holder provides ~~his~~ the permit holder's new address to the issuing authority of ~~his~~ the permit holder's 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.

**Sec. 10. 25 MRSA §2005-A, sub-§1**, as enacted by PL 1989, c. 917, §16, is amended to read:

**1. Immediate suspension.** If the permit holder is required by law to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for conduct that occurs while the permit holder is in possession of a loaded firearm, and the permit holder refuses to submit to the required testing, the permit to carry a concealed ~~firearm~~ handgun issued to that person is immediately suspended and must be surrendered at that time by the permit holder to the law enforcement officer.

**Sec. 11. 25 MRSA §2006**, as enacted by PL 1985, c. 478, §2 and corrected by RR 1999, c. 2, §28, is amended to read:

**§2006. Confidentiality of application**

Notwithstanding Title 1, sections 401 to 410, all applications for a permit to carry concealed ~~firearms~~ handguns 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~~ handguns 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~~ handguns in a suitable book or file kept for that purpose. The record ~~shall~~ must include the information contained in the permit itself and ~~shall~~ must be available for public inspection.

**Sec. 12. 30-A MRSA §2801, sub-§3-A**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**3-A. Names of those issued concealed handgun permits.** The names of persons issued concealed ~~firearms~~ handgun permits under Title 25, chapter 252, may not be printed in the annual report.

**Sec. 13. 32 MRSA §8120-A**, as enacted by PL 1997, c. 360, §5, is amended to read:

**§8120-A. Handguns**

A private investigator licensed under this chapter may carry a ~~firearm~~ handgun while performing the duties of a private investigator only after being issued a concealed ~~weapons~~ handgun permit by the Chief of the State Police under Title 25, chapter 252 and passing the written firearms examination prescribed by the commissioner.

**Sec. 14. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 25, chapter 252, in the chapter headnote, the words "permits to carry concealed firearms" are amended to read "permits to carry concealed handguns" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor