CHAPTER 43

WEAPONS

§1051. Possession of machine gun

1. A person is guilty of possession of a machine gun if, without authority to do so, he knowingly possesses a machine gun.
[PL 1975, c. 499, §1 (NEW).]

2. As used in this chapter, "machine gun" means a weapon of any description, by whatever name known, loaded or unloaded, which is capable of discharging a number of projectiles in rapid succession by one manual or mechanical action on the trigger or firing mechanism.
[PL 1975, c. 499, §1 (NEW).]

3. Possession of a machine gun is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1052. Right to possess, carry or transport machine gun

Any law enforcement officer of the State of Maine, any law enforcement officer of another state or a territory of the United States, members of the Armed Forces, Maine National Guard and Maine State Guard may possess a machine gun if the possession or carrying of such weapon is in the discharge of his official duties and has been authorized by his appointing authority. [PL 1975, c. 499, §1 (NEW).]

Machine guns manufactured, acquired, transferred or possessed in accordance with the National Firearms Act, as amended, shall be exempt from this chapter. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1053. Confiscation and seizure of machine gun

Any machine gun possessed in violation of section 1051 is declared to be contraband and is subject to forfeiture to the State. Any law enforcement officer shall have the power to seize the same with due process. [PL 1975, c. 499, §1 (NEW).]

When a machine gun is seized as provided, the officer seizing the same shall immediately file with the judge before whom such warrant is returnable, a libel against the machine gun, setting forth the seizure and describing the machine gun and the place of seizure in a sufficient manner to reasonably identify it, that it was possessed in violation of law and pray for a decree of forfeiture thereof. Such judge shall fix a time for the hearing of such libel and shall issue his monition and notice of same to all persons interested, citing them to appear at the time and place appointed to show cause why such machine gun should not be declared forfeited, by causing true and attested copies of said libel and monition to be posted in 2 public and conspicuous places in the town and place where such machine gun was seized, 10 days at least before said libel is returnable. In addition, a true and attested copy of the libel and monition shall be served upon the person from whom said machine gun was seized and upon the owner thereof, if their whereabouts can be readily ascertained 10 days at least before said libel is returnable. In lieu of forfeiture proceedings, title to such seized machine gun may be transferred in writing to the State of Maine by the owner thereof. If title to and ownership in the machine gun is transferred to the State, a receipt for the machine gun shall be given to the former owner by the law enforcement officer who seized the machine gun. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1054. Forfeiture of machine gun

If no claimant for a machine gun seized under the authority of section 1053 appears, the judge shall, on proof of notice, declare the same to be forfeited to the State. If any person appears and claims such machine gun, as having a right to the possession thereof at the time when the same was seized, he shall file with the judge a claim in writing stating specifically the right so claimed, the foundation thereof, the item so claimed, any exemption claimed, the time and place of the seizure and the name of the law enforcement officer who seized the machine gun, and in it declare that it was not possessed in violation of this chapter, and state his business and place of residence and sign and make oath to the same before said judge. If any person so makes claim, he shall be admitted as a party to the process, and the libel, and may hear any pertinent evidence offered by the libelant or claimant. If the judge is, upon hearing, satisfied that said machine gun was not possessed in violation of this chapter, and that claimant is entitled to the custody thereof, he shall give an order in writing, directed to the law enforcement officer having seized the same, commanding him to deliver to the claimant the machine gun to which he is so found to be entitled, within 48 hours after demand. If the judge finds the claimant not entitled to possess the machine gun, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such judge, and issue execution thereon, and shall declare such machine gun forfeited to the State. The claimants may appear and shall recognize with sureties as on appeals in civil actions from a judge. The judge may order that the machine gun remain in the custody of the seizing law enforcement officer, pending the disposition of the appeal. All machine guns declared forfeited to the State, or title to which have been transferred to the State in lieu of forfeiture proceedings shall be turned over to the Chief of the Maine State Police. If said machine gun is found to be of a historic, artistic, scientific or educational value, the State Police may retain the machine gun for an indefinite period of time. Any other machine gun declared forfeited and in possession of the State Police shall be destroyed by a means most convenient to the Chief of the State Police. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1055. Possession or distribution of dangerous knives

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2011, c. 31, §1 (AMD). PL 2011, c. 464, §18 (AMD). PL 2015, c. 23, §1 (RP).

§1056. Possession of armor-piercing ammunition

1. A person is guilty of possession of armor-piercing ammunition if, without authority to do so, the person knowingly possesses armor-piercing ammunition other than as part of a bona fide collection. [PL 1993, c. 457, §1 (AMD).]

2. As used in this chapter, "armor-piercing ammunition" means a projectile or projectile core that may be used in a handgun and that is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper or depleted uranium, including but not limited to ammunition commonly known as KTW ammunition. "Armor-piercing ammunition" does not include shotgun shot required by federal or state environmental or game laws, rules or regulations for hunting purposes, a frangible projectile designed for target shooting or any projectile or projectile core found by the United States Secretary of the Treasury or the secretary's delegate, pursuant to 27 Code of Federal Regulations, Section 178.148 or Section 178.149, to be:

A. Primarily intended to be used for sporting purposes; or [PL 1993, c. 457, §1 (NEW).]

B. Used for industrial purposes, including a charge used in an oil and gas well perforating device. [PL 1993, c. 457, §1 (NEW).]

[PL 1993, c. 457, §1 (AMD).]

3. Possession of armor-piercing ammunition is a Class C crime.

[PL 1993, c. 457, §1 (AMD).]

4. This section does not apply to members of the United States Armed Forces, the United States Reserve Forces or the National Guard, or to law enforcement officers or agencies or forensic laboratories, in the course of duty or employment.

[PL 1993, c. 457, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 430 (NEW). PL 1993, c. 457, §1 (AMD).

§1057. Possession of firearms in an establishment licensed for on-premises consumption of liquor

1. A person is guilty of criminal possession of a firearm if:

A. Not being a law enforcement officer or a professional investigator licensed under Title 32, chapter 89 and actually performing as a professional investigator, the person possesses any firearm on the premises of a licensed establishment posted to prohibit or restrict the possession of firearms in a manner reasonably likely to come to the attention of patrons, in violation of the posted prohibition or restriction; or [PL 2011, c. 366, §2 (AMD).]

B. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level, the person possesses a firearm in a licensed establishment. [PL 2009, c. 447, §18 (AMD).]

[PL 2011, c. 366, §2 (AMD).]

2. For the purposes of this section, "licensed establishment" means a licensed establishment as defined by Title 28-A, section 2, subsection 15, the license for which is held by an on-premise retail licensee, as defined by Title 28-A, section 2, subsection 27, paragraph B. For the purposes of this section, "premises" has the same meaning as set forth in Title 28-A, section 2, subsection 24.

[PL 1989, c. 917, §2 (NEW).]

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

[PL 2015, c. 329, Pt. B, §1 (RPR).]

4. A law enforcement officer who has probable cause to believe that a person has violated subsection 1, paragraph B, may require that person to submit to chemical testing to determine an alcohol level or drug concentration. If the court is satisfied that the law enforcement officer had probable cause to believe that the defendant was in violation of subsection 1, paragraph B, and that the person was informed of the requirement to submit to chemical testing, the person's failure to comply with the requirement to submit to chemical testing is admissible evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs.

[PL 2009, c. 447, §19 (AMD).]

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 handguns issued pursuant to Title 25, chapter 252, or of the authority of a professional investigator licensed to carry a concealed handgun pursuant to Title 32, chapter 89, is as provided in those chapters.
[PL 2011, c. 691, Pt. A, §17 (RPR).]

6. Criminal possession of a firearm is a Class D crime. In addition, as part of every judgment of conviction and sentence imposed, the court shall:

A. Revoke any permit to carry a concealed firearm issued to the person so convicted; and [PL 1989, c. 917, §2 (NEW).]

B. If the person so convicted is licensed as a professional investigator, suspend for a period of 5 years that person's permit to carry a concealed firearm. [PL 2011, c. 366, §4 (AMD).]

A person convicted of a violation of this section is not eligible to obtain or apply for a permit to carry a concealed firearm for 5 years from the date of that conviction.
[PL 2011, c. 366, §4 (AMD).]

SECTION HISTORY

PL 1989, c. 917, §2 (NEW). PL 1995, c. 65, §A57 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2009, c. 447, §§18-20 (AMD). PL 2011, c. 298, §§2, 3 (AMD). PL 2011, c. 366, §§2-4 (AMD). PL 2011, c. 394, §2 (AMD). PL 2011, c. 691, Pt. A, §17 (AMD). PL 2015, c. 329, Pt. B, §1 (AMD).

§1058. Unauthorized possession of firearm in courthouse

1. A person is guilty of unauthorized possession of a firearm in a courthouse if that person in fact possesses a firearm in a courthouse.
[PL 2005, c. 527, §9 (AMD).]

2. This section does not apply to:

A. A law enforcement officer, a corrections officer or a corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty; [PL 2007, c. 466, Pt. C, §6 (AMD).]

B. A person possessing an unloaded firearm for the purpose of offering the firearm as evidence in a civil or criminal proceeding if the presiding judge or justice has granted prior approval in writing to the person and the person possesses a copy of the written approval; or [PL 2007, c. 466, Pt. C, §6 (AMD).]

C. An employee of a courier or security service in the course and scope of employment for the courier or security service, as approved by the judicial marshal. [PL 2013, c. 147, §1 (AMD).]
[PL 2013, c. 147, §1 (AMD).]

2-A. It is not a defense to a prosecution under this section that the person holds a valid permit to carry a concealed handgun issued under Title 25, chapter 252.
[PL 2013, c. 424, Pt. A, §7 (AMD).]

3. Unauthorized possession of a firearm in a courthouse is a Class D crime.
[PL 2005, c. 527, §9 (AMD).]

SECTION HISTORY

PL 2005, c. 175, §1 (NEW). PL 2005, c. 527, §9 (AMD). PL 2007, c. 466, Pt. C, §6 (AMD). PL 2013, c. 147, §1 (AMD). PL 2013, c. 424, Pt. A, §7 (AMD).

§1059. Unauthorized possession of a firearm in a correctional facility or jail

1. A person is guilty of unauthorized possession of a firearm in a correctional facility or jail if that person in fact possesses a firearm in a correctional facility or jail or on the premises of the correctional facility or jail.
[PL 2021, c. 266, §1 (NEW).]

2. This section does not apply to:

A. A law enforcement officer, a corrections officer or a corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty; [PL 2021, c. 266, §1 (NEW).]

B. An employee of a courier or security service in the course and scope of employment for the courier or security service, as approved by the chief administrative officer of the correctional facility or the jail administrator; or [PL 2021, c. 266, §1 (NEW).]

C. A person who has stored a firearm out of sight in a locked motor vehicle that is on the premises of a correctional facility or jail. [PL 2021, c. 266, §1 (NEW).]
[PL 2021, c. 266, §1 (NEW).]

3. It is not a defense to a prosecution under this section that the person holds a valid permit to carry a concealed handgun issued under Title 25, chapter 252.
[PL 2021, c. 266, §1 (NEW).]

4. Unauthorized possession of a firearm in a correctional facility or jail is a Class D crime.
[PL 2021, c. 266, §1 (NEW).]

5. For the purposes of this section, "chief administrative officer" and "correctional facility" have the same meanings as in Title 34-A, section 1001, subsections 1 and 6, respectively, and "jail" means a county or regional jail.
[PL 2021, c. 266, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 266, §1 (NEW).

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